

# CONSTITUTION

## OF THE

# STATE OF SOUTH DAKOTA.

[Adopted by popular vote October 1, 1889. Yeas, 70,131; nays, 3,267.]

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### PREAMBLE.

We, the people of South Dakota, grateful to Almighty God for our civil and religious liberties, in order to form a more perfect and independent government, establish justice, insure tranquility provide for the common defense, promote the general welfare and preserve to ourselves and to our posterity the blessings of liberty, do ordain and establish this constitution for the State of South Dakota.

### ARTICLE I.

#### NAME AND BOUNDARY.

§ 1. The name of the state shall be South Dakota.

§ 2. The boundaries of the State of South Dakota shall be as follows: Beginning at the point of intersection of the western boundary line of the State of Minnesota with the northern boundary line of the State of Iowa, and running thence northerly along the western boundary line of the State of Minnesota to its intersection with the 7th standard parallel; thence west on the line of the 7th standard parallel produced due west to its intersection with the 27th meridian of longitude west from Washington; thence south on the 27th meridian of longitude west from Washington to its intersection with the northern boundary line of the State of Nebraska; thence easterly along the northern boundary line of the State of Nebraska to its intersection with the western boundary line of the State of Iowa; thence northerly along the western boundary line of the State of Iowa to its intersection with the northern boundary line of the State of Iowa; thence east along the northern boundary line of the State of Iowa to the place of beginning.

## ARTICLE II.

## DIVISION OF THE POWERS OF GOVERNMENT.

The powers of the government of this State are divided into three distinct departments—the legislative, executive and judicial; and the powers and duties of each are prescribed by this Constitution.

## ARTICLE III.

## LEGISLATIVE DEPARTMENT.

§ 1. The Legislative power of the State shall be vested in a legislature which shall consist of a senate and house of representatives, except that the people expressly reserve to themselves the right to propose measures, which measures the legislature shall enact and submit to a vote of the electors of the state, and also the right to require that any laws which the legislature may have enacted shall be submitted to a vote of the electors of the state before going into effect (except such laws as may be necessary for the immediate preservation of the public peace, health or safety, support of the state government and its existing public institutions.

Provided, that not more than five per centum of the qualified electors of the state shall be required to invoke either the initiative or referendum.

This section shall not be construed so as to deprive the legislature or any member thereof of the right to propose any measure. The veto power of the executive shall not be exercised as to measures referred to a vote of the people. This section shall apply to municipalities. The enacting clause of all laws approved by a vote of the electors of the state shall be, "Be it Enacted by the People of South Dakota." The legislature shall make suitable provisions for the carrying into effect of the provisions of this section.

(The foregoing section (§ 1) was submitted in its present form by the Legislature in 1897 as an amendment to the Constitution: (Chap. 39, Laws of 1897.) It was adopted by the people at the general election held November 8, 1898.

§ 2. The number of members of the House of Representatives shall not be less than seventy-five nor more than one hundred and thirty-five. The number of the members of the senate shall not be less than twenty-five nor more than forty-five.

The sessions of the legislature shall be biennial except as otherwise provided in this constitution.

§ 3. No person shall be eligible to the office of senator who is not a qualified elector in the district from which he may be chosen, and a citizen of the United States, and who shall not have attained the age of twenty-five years, and who shall not have been a resident of the state or territory for two years next preceding his election.

No person shall be eligible to the office of representative who is not a qualified elector in the district from which he may be chosen, and a citizen of the United States, and who shall not have been a resident of the state or territory for two years next preceding his election, and who shall not have attained the age of twenty-five years.

No judge or clerk of any court, secretary of state, attorney general, state's attorney, recorder, sheriff or collector of public moneys, member of either house of congress, or person holding and lucrative office under the United States or this state, or any foreign government, shall be a member of the legislature: *Provided*, that appointments in the militia, the offices of notary public and justice of the peace shall not be considered lucrative nor shall any person holding any office or honor or profit under any foreign government or under the government of the United States, except postmasters whose annual compensation does not exceed the sum of three hundred dollars, hold any office in either branch of the legislature or become a member thereof.

§ 4. No person who has been, or hereafter shall be, convicted of bribery, perjury, or other infamous crime, nor any person who has been, or may be collector or holder of public moneys who shall not have accounted for and paid over, according to law, all such moneys due from him, shall be eligible to the legislature or to any office in either branch thereof.

§ 5. The legislature shall provide by law for the enumeration of the inhabitants of the state in the year one thousand eight hundred and ninety-five and every ten years thereafter, and at its first regular session after each enumeration, and also after each enumeration made by authority of the United States, but at no other time, the legislature shall apportion the senators and representatives according to the number of inhabitants, excluding Indians not taxed and soldiers and officers of the United States army and navy: *Provided*, that the legislature may make apportionment at its first session after the admission of South Dakota as a State.

§ 6. The terms of office of the Members of the Legislature shall be two years; they shall receive for their services the sum of five dollars for each day's attendance.

NOTE—The mileage of the members of the legislature was amended by reducing from "ten" to "five" cents per mile by popular vote of 39,364 for and 11,236 against, at the general election of 1892.

during the session of the legislature, and ten cents for every mile of necessary travel in going to and returning from the place of meeting of the legislature on the most usual route.

Each regular session of the legislature shall not exceed sixty days, except in cases of impeachment, and members of the legislature shall receive no other pay or perquisites except per diem and mileage.

§ 7. The legislature shall meet at the seat of government on the first Tuesday after the first Monday of January at 12 o'clock M., in the year next ensuing the election of members thereof, and at no other time except as provided by this constitution.

§ 8. Members of the legislature and officers thereof, before they enter upon their official duties, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the State of South Dakota, and will faithfully discharge the duties of (senator, representative or officer) according to the best of my abilities, and that I have not knowingly or intentionally paid or contributed anything, or made any promise in the nature of a bribe, to directly or indirectly influence any vote at the election at which I was chosen to fill said office, and have not accepted, nor will I accept or receive directly or indirectly, any money, pass, or any other valuable thing, from any corporation, company or person for any vote or influence I may give or withhold on any bill or resolution, or appropriation, or for any other official act,

This oath shall be administered by a judge of the supreme or circuit court, or the presiding officer of either house, in the hall of the house to which the member or officer is elected, and the secretary of state shall record and file the oath subscribed by each member and officer.

Any member or officer of the legislature who shall refuse to take the oath herein prescribed shall forfeit his office.

Any member or officer of the legislature who shall be convicted of having sworn falsely to, or violated his said oath, shall forfeit his office and be disqualified thereafter from holding the office of senator or member of the house of representatives or any office within the gift of the legislature.

§ 9. Each house shall be the judge of the election returns and qualifications of its own members.

A majority of the members of each house shall constitute a quorum, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such a manner and under such penalty as each house may provide.

Each house shall determine the rules of its proceedings, shall choose its own officers and employes and fix the pay thereof, except as otherwise provided in this constitution.

§ 10. The governor shall issue writs of election to fill such vacancies as may occur in either house of the legislature.

§ 11. Senators and representatives shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during the session of the legislature, and in going to and returning from the same; and for words used in any speech or debate in either house, they shall not be questioned in any other place.

§ 12. No member of the legislature shall, during the term for which he was elected, be appointed or elected to any civil office in the state which shall have been created or the emoluments of which shall have been increased during the term for which he was elected, nor shall any member receive any civil appointment from the governor, the governor and senate, or from the legislature during the term for which he shall have been elected, and all such appointments and all votes given for any such members for any such office or appointment shall be void; nor shall any member of the legislature, during the term for which he shall have been elected, or within one

year thereafter, be interested, directly or indirectly, in any contract with the State or county thereof, authorized by any law passed during the term for which he shall have been elected.

§ 13. Each house shall keep a journal of its proceedings and publish the same from time to time, except such parts as require secrecy, and the yeas and nays of members on any question shall be taken at the desire of one-sixth of those present and entered upon the journal.

§ 14. In all elections to be made by the legislature the members thereof shall vote viva voce and their votes shall be entered in the journal.

§ 15. The sessions of each house and of the committee of the whole shall be open, unless when the business is such as ought to be kept secret.

§ 16. Neither house shall without the consent of the other, adjourn for more than three, days nor to any other place than that in which the two houses shall be sitting.

§ 17. Every bill shall be read three several times, but the first and second reading may be on the same day, and the second reading may be by title of the bill, unless the reading at length be demanded. The first and third readings shall be at length.

§ 18. The enacting clause of a law shall be: "Be it enacted by the Legislature of the State of South Dakota," and no law shall be passed unless by assent of a majority of all the members elected to each house of the legislature. And the question upon the final passage shall be taken upon its last reading, and the yeas and nays shall be entered upon the journal.

§ 19. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the legislature, after their titles have been publicly read immediately before signing, and the fact of signing shall be entered upon the journal.

§ 20. Any bill may originate in either house of the legislature, and a bill passed by one house may be amended in the other.

§ 21. No law shall embrace more than one subject, which shall be expressed in its title.

§ 22. No act shall take effect until ninety days after the adjournment of the session at which it passed, unless in case of emergency (to be expressed in the preamble or body of the act) the legislature shall, by a vote of two-thirds of all the members elected of each house, otherwise direct.

§ 23. The legislature is prohibited from enacting any private or special laws in the following cases:

1. Granting divorces.
2. Changing the names of persons or places, or constituting one person the heir at law of another.
3. Locating or changing county seats.
4. Regulating county and township affairs.
5. Incorporating cities, towns and villages, or changing or amending the charter of any town, city or village, or laying out, opening, vacating or altering town plats, streets, wards, alleys and public ground.
6. Providing for sale or mortgage of real estate belonging to minors or others under disability.
7. Authorizing persons to keep ferries across streams wholly within the state.
8. Remitting fines, penalties or forfeitures.
9. Granting to an individual, association or corporation any special or exclusive privilege, immunity or franchise whatever.
10. Providing for the management of common schools.



11. Creating, increasing or decreasing fees, percentages or allowances of public officers during the term for which said officers are elected or appointed.

But the legislature may repeal any existing special law relating to the foregoing subdivisions.

In all other cases where a general law can be applicable, no special law shall be enacted.

§ 24. The legislature shall have no power to release or extinguish, in whole or in part, the indebtedness, liability or obligation of any corporation or individual to this State or to any municipal corporation therein.

§ 25. The legislature shall not authorize any game of chance, lottery or gift enterprise, under any pretense or for any purpose whatever.

§ 26. The legislature shall not delegate to any special commission, private corporation, or association, any power to make, supervise or interfere with any municipal improvement, money, property, effects, whether held in trust or otherwise or levy taxes, or to select a capital sight, or to perform any municipal functions whatever.

§ 27. The legislature shall direct by law in what manner and in what courts suits may be brought against the State.

§ 28. Any person who shall give, demand, offer, directly or indirectly, any money, testimonial, privilege or personal advantage, thing of value to any executive or judicial officer or member of the legislature, to influence him in the performance of any of his official or public duties, shall be guilty of bribery and shall be punished in such manner as shall be provided by law.

The offense of corrupt solicitation of members of the legislature, or of public officers of the State, or any municipal division thereof, and any effort toward solicitation of said members of the legislature or officer to influence their official action shall be defined by law, and shall be punishable by fine and imprisonment.

Any person may be compelled to testify in investigation or judicial proceedings against any person charged with having committed any offense of bribery or corrupt solicitation, and shall not be permitted to withhold his testimony upon the ground that it may criminate himself, but said testimony shall not afterwards be used against him in any judicial proceeding except for bribery in giving such testimony, and any person convicted of either of the offenses aforesaid shall be disqualified from holding any office or position or office of trust or profit in this state.

## ARTICLE IV.

### EXECUTIVE DEPARTMENT.

§ 1. The executive power shall be vested in a governor who shall hold his office two years. A lieutenant governor shall be elected at the same time and for the same term.

§ 2. No person shall be eligible to the office of governor or lieutenant governor except a citizen of the United States and a qualified elector of the State, who shall have attained the age of 30 years, and who shall have resided two years next preceding the election within the State or territory; nor shall he be eligible to any other office during the term for which he shall have been elected.

§ 3. The governor and lieutenant governor shall be elected by the qualified electors of the State at the time and places of choosing members of the legislature. The persons respectively having the highest number of votes for governor and lieutenant governor shall be elected; but if two or more shall have an equal and highest number of votes for governor or lieutenant governor, the two houses of the legislature

at its next regular session shall forthwith, by joint ballot, choose one of such persons for said office. The returns of the election for governor and lieutenant governor shall be made in such manner as shall be prescribed by law.

§ 4. The governor shall be commander-in-chief of the military and naval forces of the State, except when they shall be called into the service of the United States, and may call out the same to execute laws, suppress insurrection and repel invasion. He shall have power to convene the legislature on extraordinary occasions. He shall, at the commencement of each session, communicate to the legislature by message, information of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall transact all necessary business with the officers of the government, civil and military. He shall expedite all such measures as may be resolved upon by the legislature, and shall take care that the laws be faithfully executed.

§ 5. The governor shall have the power to remit fines and forfeitures, to grant reprieves, commutations and pardons after conviction, for all offences except treason and cases of impeachment. Provided, that in all cases where the sentence of the court is capital punishment, imprisonment for life, or for a longer term than two years, or a fine exceeding two hundred dollars, no pardon shall be granted, sentence commuted or fine remitted, except upon the recommendation in writing of a board of pardons, consisting of the presiding judge, secretary of state and attorney general, after a full hearing in open session and such recommendation, with the reasons therefor, shall be filed in the office of the secretary of state, but the legislature may by law in all cases regulate the manner in which the remission of fines, pardons commutations and reprieves, may be applied for. Upon conviction for treason he shall have the power to suspend the execution of the sentence until the case shall be reported to the legislature at its next regular session, when the legislature shall either pardon or commute the sentence, direct the execution of the sentence or grant a further reprieve. He shall communicate to the legislature at each regular session each case of remission of fine, reprieve, commutation or pardon, granted by him in the cases in which he is authorized to act without the recommendation of the said board of pardons, stating the name of the convict, the crime of which he is convicted, the sentence and its date and the date of the remission, commutation, pardon or reprieve, with his reasons for granting the same.

§ 6. In case of death, impeachment, resignation, failure to qualify, absence from the State, removal from office or other disability of the governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the lieutenant governor.

§ 7. The lieutenant governor shall be president of the senate, but shall have only a casting vote therein. If during a vacancy in the office of governor the lieutenant governor shall be impeached, displaced, resign or die, or from mental or physical disease or otherwise become incapable of performing the duties of his office, the secretary of state shall act as governor until the vacancy shall be filled or the disability removed.

§ 8. When any office shall, from any cause, become vacant and no mode is provided by the constitution or law for filling such vacancy, the governor shall have the power to fill such vacancy by appointment.

§ 9. Every bill which shall have passed the legislature, shall, before it becomes a law, be presented to the governor. If he approve he shall sign it; but if not, he shall return it with his objection to the house in which it originated, which shall enter the objection at large upon the journal and proceed to reconsider it. If after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent together with the objection, to the other house, by which it shall likewise

be reconsidered, and if it be approved by two-thirds of the members present, it shall become a law; but in all such cases the vote of both houses shall be determined by the yeas and nays, and the names of the members voting for and against the bill shall be entered upon the journal of each house respectively. If any bill shall [not] be returned by the governor within three days (Sunday excepted) after it shall have been presented to him, the same shall be a law, unless the legislature shall by its adjournment prevent its return, in which case it shall be filed, with his objection, in the office of the secretary of state within ten days after such adjournment, or become a law.

§ 10. The governor shall have power to disapprove of any item or items of any bill making appropriations of money embracing distinct items, and the part or parts of the bill approved shall be law, and the item or items disapproved shall be void, unless enacted in the following manner: If the legislature be in session he shall transmit to the house in which the bill originated, a copy of the item or items thereof disapproved, together with his objections thereto, and the items objected to shall be separately reconsidered, and each item shall then take the same course as is prescribed for the passage of bills over the executive veto.

§ 11. Any governor of this state who asks, receives, or agrees to receive any bribe upon any understanding that his official opinion, judgment or action shall be influenced thereby, or who gives, or offers, or promises his official influence in consideration that any member of the legislature shall give his official vote or influence on any particular side of any question or matter upon which he may be required to act in his official capacity, or who menaces any member by the threatened use of his veto power, or who offers or promises any member that he, the said governor, will appoint any particular person or persons to any office created or thereafter to be created, in consideration that any member shall give his official vote or influence on any matter pending or thereafter to be introduced into either house of said legislature, or who threatens any member that he, the said governor, will remove any person or persons from any office or position with intent to in any manner influence the official action of said member, shall be punished in the manner now, or that may hereafter be, provided by law, and upon conviction thereon shall forfeit all right to hold or exercise any office of trust or honor in this State.

§ 12. There shall be chosen by the qualified electors of the state at the time and places of choosing members of the legislature, a secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of school and public lands, and an attorney general, who shall severally hold their offices for the term of two years, but no person shall be eligible to the office of treasurer for more than two terms consecutively. They shall respectively keep their offices at the seat of government.

§ 13. The powers and duties of the secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of school and public lands, and attorney general shall be as prescribed by law.

## ARTICLE V.

### JUDICIAL DEPARTMENT.

§ 1. The judicial powers of the State, except as in this constitution otherwise provided, shall be vested in a supreme court, circuit courts, county courts, and justices of the peace, and such other courts as may be created by law for cities and incorporated towns.

§ 2. The supreme court, except as otherwise provided in this constitution, shall have appellate jurisdiction only, which shall be coextensive with the State, and



shall have a general superintending control over all inferior courts under such regulations and limitations as may be prescribed by law.

§ 3. The supreme court and the judges thereof shall have power to issue writs of habeas corpus. The supreme court shall also have power to issue writs of mandamus quowarranto, certiorari, injunction, and other original and m[r]edial writs, with authority to hear and determine the same in such cases and under such regulations as may be prescribed by law; Provided, however, that no jury trials shall be allowed in said supreme court, but, in proper cases, questions of fact may be sent by said court to a circuit court for trial before a jury.

§ 4. At least two terms of the supreme court shall be held each year at the seat of government.

§ 5. The supreme court shall consist of three judges, to be chosen from districts by qualified electors of the State at large, as hereinafter provided.

§ 6. The number of said judges and districts may after five years from the admission of this State under this constitution, be increased by law to not exceeding five.

§ 7. A majority of the judges of the supreme court shall be necessary to form a quorum or to pronounce a decision but one or more of said judges may adjourn the court from day to day, or to a day certain.

§ 8. The term of the judges of the supreme court who shall be elected at the first election under this constitution shall be four years. At all subsequent elections the term of said judges shall be six years.

§ 9. The judges of the supreme court shall by rule select from their number a presiding judge, who shall act as such for the term prescribed by such rule.

§ 10. No person shall be eligible to the office of judge of the supreme court unless he be learned in the law, be at least thirty years of age, a citizen of the United States, nor unless he shall have resided in this State or territory at least two years next preceeding his election and at the time of his election be a resident of the district from which he is elected; but for the purpose of re-election, no such judge shall be deemed to have lost his residence in the district by reason of his removal to the seat of government in the discharge of his official duties.

§ 11. Until otherwise provided by law, the districts from which the said judges of the supreme court shall be elected shall be constituted as follows:

First District—All that portion of the State lying west of the Missouri river.

Second District—All that portion of the state lying east of the Missouri river and south of the second standard parallel.

Third District—All that portion of the state lying east of the Missouri river and north of the second standard parallel.

§ 12. There shall be a clerk and also a reporter of the supreme court, who shall be appointed by the judges thereof and who shall hold office during the pleasure of said judges, and whose duties and emoluments shall be prescribed by law, and by the rules of the supreme court not inconsistent with law. The legislature shall make provision for the publication and distribution of the decisions of the supreme court, and for the sale of the published volumes thereof. No private person or corporation shall be allowed to secure any copyright to such decisions, but if any copyrights are secured they shall inure wholly to the benefit of the State.

§ 13. The governor shall have authority to require the opinions of the judges of the supreme court upon important questions of law involved in the exercise of his executive powers and upon solemn occasions.



## CIRCUIT COURTS.

§ 14. The circuit courts shall have original jurisdiction of all actions and causes, both at law and in equity, and such appellate jurisdiction as may be conferred by law and consistent with this constitution; such jurisdiction as to value and amount and grade of offense may be limited by law. They and the judges thereof shall also have jurisdiction and power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, injunction, and other original and remedial writs, with authority to hear and determine the same.

§ 15. The State shall be divided into judicial circuits, in each of which there shall be elected by the electors thereof one judge of the circuit court therein, whose term of office shall be four years.

§ 16. Until otherwise ordered by law, said circuits shall be eight in number and constituted as follows, viz:

First Circuit—The counties of Union, Clay, Yankton, Turner, Bon Homme, Hutchinson, Charles Mix, Douglas, Todd, Gregory, Tripp, and Meyer.

Second Circuit—The counties of Lincoln, Minnehaha, McCook, Moody and Lake.

Third Circuit—The counties of Brookings, Kingsbury, Deuel, Hamlin, Codington, Clark, Grant, Roberts, Day, and the Wahpeton and Sisseton reservation, except such portion of said reservation as lies in Marshall county.

Fourth Circuit—The counties of Sanborn, Davison, Aurora, Brule, Buffalo, Jerauld, Hanson, Miner, Lyman, Presho, and Pratt.

Fifth Circuit—The counties of Beadle, Spink, Brown and Marshall.

Sixth Circuit—The counties of Hand, Hyde, Hughes, Sully, Stanley, Potter, Faulk, Edmunds, Walworth, Campbell, McPherson, and all that portion of said State lying east of the Missouri river and not included in any other judicial circuit.

Seventh Circuit—The counties of Pennington, Custer, Fall River, Shannon, Washington, Ziebach, Stirling, Nowlin, Jackson, Washabaugh, and Lugenbeel.

Eighth Circuit—The counties of Lawrence, Meade, Scobey, Butte, Delano, Pyatt, Dewey, Boreman, Schnasse, Rinehart, Martin, Choteau, Ewing, Harding, and all that portion of said State west of the Missouri river and North of the Big Cheyenne river and the north fork of the Cheyenne river not included in any other judicial circuit.

§ 17. The legislature may, whenever two-thirds of the members of each house shall concur therein, increase the number of judicial circuits and the judges thereof, and divide the State into judicial circuits accordingly, taking care that they be formed of compact territory and be bounded by county lines; but such increase of number or change in the boundaries of districts shall not work the removal of any judge from his office during the term for which he shall have been elected or appointed.

§ 18. Writs of error and appeals may be allowed from the decisions of the circuit courts to the supreme court under such regulations as may be prescribed by law.

## COUNTY COURTS.

§ 19. There shall be elected in each organized county a county judge who shall be judge of the county court of said county, whose term of office shall be two years until otherwise provided by law.

§ 20. County courts shall be courts of record and shall have original jurisdiction in all matters of probate, guardianship, and settlement of estates of deceased persons, and such other civil and criminal jurisdiction as may be conferred by law; Provided, that such courts shall not have jurisdiction in any case where the debt, damage, claim or value of property involved shall exceed one thousand dollars except in matters of

probate, guardianship and the estates of deceased persons. Writs of error and appeal may be allowed from county to circuit courts, or to the supreme court, in such cases and in such manner as may be prescribed by law; Provided, that no appeal or writ of error shall be allowed to the circuit court from any judgment rendered upon an appeal from a justice of the peace or police magistrate for cities or towns.

§ 21. The county court shall not have jurisdiction in cases of felony, nor shall criminal cases therein be prosecuted by indictment; but they may have such jurisdiction in criminal matters, not of the grade of felony, as the legislature may prescribe, and the prosecutions therein may be by information or otherwise as the legislature may provide.

#### JUSTICE OF THE PEACE.

§ 22. Justices of the peace shall have such jurisdiction as may be conferred by law, but they shall not have jurisdiction of any cause wherein the value of the property or the amount in controversy exceeds the sum of one hundred dollars, or where the boundaries or title to real property shall be called in question.

#### POLICE MAGISTRATE.

§ 23. The legislature shall have power to provide for creating such police magistrates for cities and towns as may be deemed from time to time necessary, who shall have jurisdiction of all cases arising under the ordinances of such cities and towns respectively, and such police magistrates may also be constituted ex-officio justices of the peace for their respective counties.

#### STATES ATTORNEY.

§ 24. The legislature shall have power to provide for state's attorneys and to prescribe their duties and fix their compensation: but no person shall be eligible to the office of attorney general or state's attorney who shall not at the time of his election be at least twenty-five years of age, and possess all the other qualifications for judges of circuit courts as prescribed in this article.

#### MISCELLANEOUS.

§ 25. No person shall be eligible to the office of judge of the circuit or county courts, unless he be learned in the law, be at least twenty-five years of age, and a citizen of the United States: nor unless he shall have resided in this state or territory at least one year next preceding his election, and at the time of his election be a resident of the county or circuit, as the case may be, for which he is elected.

§ 26. The judges of the supreme court, circuit courts and county courts shall be chosen at the first election held under the provisions of this constitution, and thereafter as provided by law, and the legislature may provide for the election of such officers on a different day from that on which an election is held for any other purpose, and may for the purpose of making such provision, extend or abridge the term of office for any of such judges then holding, but not in any case more than six months. The term of office of all judges of circuit courts, elected in the several judicial circuits throughout the state, shall expire on the same day.

§ 27. The time of holding courts within said judicial circuits and counties shall be as provided by law; but at least one term of the circuit court shall be held annually

in each organized county, and the legislature shall make provision for attaching unorganized counties or territory to organized counties for judicial purposes.

§ 28. Special terms of said courts may be held under such regulations as may be provided by law.

§ 29. The judges of the circuit courts may hold courts in other circuits than their own, under such regulations as may be prescribed by law.

§ 30. The judges of the supreme court, circuit courts and county courts shall each receive such salary as may be provided by law, consistent with this constitution, and no such judge shall receive any compensation, perquisite or emoluments for or on account of his office in any form whatever, except such salary; Provided, that county judges may accept and receive such fees as may be allowed under the land laws of the United States.

§ 31. No judge of the supreme court or circuit court shall act as attorney or counselor at law, nor shall any county judge act as an attorney or counselor at law in any case which is or may be brought into his court, or which may be appealed therefrom.

§ 32. There shall be a clerk of the circuit court in each organized county who shall also be clerk of the county court, and who shall be elected by the qualified electors of such county. The duties and compensation of said clerk shall be as provided by law and regulated by the rules of the court consistent with the provisions of law.

§ 33. Until the legislature shall provide by law for fixing the terms of courts, the judges of the supreme, circuit and county courts respectively shall fix the terms thereof.

§ 34. All laws relating to courts shall be general and of uniform operation throughout the state, and the organization, jurisdiction, power, proceedings and practice of all the courts of the same class or grade, so far as regulated by law, and the force and effect of the proceedings, judgments and decrees of such courts severally shall be uniform; Provided, however, that the legislature may classify the county courts according to the population of the respective counties and fix the jurisdiction and salary of the judges thereof, accordingly.

§ 35. No judge of the supreme or circuit courts shall be elected to any other than a judicial office or be eligible thereto, during the term, for which he was elected such judge. All votes for either of them during such term for any elective office, except that of judge of the supreme court, circuit court or county court given by the legislature or the people, shall be void.

§ 36. All judges or other officers of the supreme, circuit or county courts provided for in this article shall hold their offices until their successors respectively are elected or appointed and qualified.

§ 37. All officers provided for in this article shall respectively reside in the district, county, precinct, city or town for which they may be elected or appointed. Vacancies in the elective offices provided for in this article shall be filled by appointment until the next general election as follows: All judges of the supreme, circuit and county courts by the governor. All other judicial and other officers by the county board of the counties where the vacancy occurs; in cases of police magistrates, by the municipality.

§ 38. All process shall run in the name of the "State of South Dakota." All prosecutions shall be carried on in the name of and by authority of the "State of South Dakota."

## ARTICLE VI.

### BILL OF RIGHTS.

§ 1. All men are born equally free and independent, and have certain inherent rights, among which are those of enjoying and defending life and liberty, of acquiring



and protecting property and the pursuit of happiness. To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.

§ 2. No person shall be deprived of life, liberty or property without due process of law.

§ 3. The right to worship God according to the dictates of conscience shall never be infringed. No person shall be denied any civil or political right, privilege or position on account of his religious opinions; but the liberty of conscience hereby secured shall not be so construed as to excuse licentiousness, the invasion of the rights of others, or justify practices inconsistent with the peace or safety of the state.

No person shall be compelled to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious establishment or mode of worship. No money or property of the state shall be given or appropriated for the benefit of any sectarian or religious society or institution.

§ 4. The right of petition, and of the people peaceably to assemble to consult for the common good and make known their opinions, shall never be abridged.

§ 5. Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that right. In all trials for libel, both civil and criminal, the truth, when published with good motives and for justifiable ends, shall be a sufficient defense. The jury shall have the right to determine the fact and the law under the direction of the court.

§ 6. The right of trial by jury shall remain inviolate and shall extend to all cases at law without regard to the amount in controversy, but the legislature may provide for a jury of less than twelve in any court not a court of record, and for the decision of civil cases by three-fourths of the jury in any court.

§ 7. In all criminal prosecutions the accused shall have the right to defend in person and by counsel; to demand the nature and cause of the accusation against him; to have a copy thereof; to meet the witnesses against him face to face; to have compulsory process served for obtaining witnesses in his behalf, and to a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

§ 8. All persons shall be bailable by sufficient sureties, except for capital offenses when proof is evident or presumption great. The privilege of the writ of habeas corpus shall not be suspended unless, when in case of rebellion or invasion, the public safety may require it.

§ 9. No person shall be compelled, in any criminal case to give evidence against himself or be twice put in jeopardy for the same offense

§ 10. No person shall be held for a criminal offense unless on the presentment or indictment of the grand jury, or information of the public prosecutor, except in cases of impeachment, in cases cognizable by county courts, by justices of the peace, and in cases arising in the army and navy, or in the militia when in actual service in time of war or public danger. Provided, that the grand jury may be modified or abolished by law.

§ 11. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause supported by affidavit, particularly describing the place to be searched and the person or things to be seized.

§ 12. No ex post facto law, or law impairing the obligation of contracts or making any irrevocable grant of privilege, franchise or immunity shall be passed.

§ 13. Private property shall not be taken for public use, or damaged, without just compensation as determined by a jury, which shall be paid as soon as it can be ascertained and before possession is taken. No benefit which may accrue to the owner



as a result of an improvement made by any private corporation shall be considered in fixing the compensation for property taken or damaged. The fee of land taken for railroad tracks or other highways shall remain in such owners, subject to the use for which it is taken.

§ 14. No distinction shall ever be made by law between resident aliens and citizens in reference to the possession, enjoyment or descent of property.

§ 15. No person shall be imprisoned for debt arising out of or founded upon a contract.

§ 16. The military shall be in strict subordination to the civil power. No soldier in time of peace shall be quartered in any house without consent of the owner, nor in time of war except in the manner prescribed by law.

§ 17. No tax or duty shall be imposed without the consent of the people or their representatives in the legislature, and all taxation shall be equal and uniform.

§ 18. No law shall be passed granting to any citizen, class of citizens or corporation, privileges or immunities which upon the same terms shall not equally belong to all citizens or corporations.

§ 19. Elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage. Soldiers in time of war may vote at their post of duty in or out of the state under regulations to be prescribed by the legislature.

§ 20. All courts shall be open, and every man for an injury done him in his property, person or reputation, shall have remedy by due course of law, and right and justice administered without denial or delay.

§ 21. No power of suspending laws shall be exercised, unless by the legislature or its authority.

§ 22. No person shall be attainted of treason or felony by the legislature.

§ 23. Excessive bail shall not be required, excessive fines imposed, nor cruel punishments inflicted.

§ 24. The right of the citizens to bear arms in defense of themselves and the state shall not be denied.

§ 25. Treason against the state shall consist only in levying war against it, or in adhering to its enemies or in giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or confession in open court.

§ 26. All political power is inherent in the people and all free government is founded on their authority, and is instituted for their equal protection and benefit, and they have the right in lawful and constituted methods to alter or reform their forms of government in such manner as they may think proper. And the State of South Dakota is an inseparable part of the American Union, and the constitution of the United States is the supreme law of the land.

§ 27. The blessings of a free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles.

## ARTICLE VII.

### ELECTIONS AND RIGHT OF SUFFRAGE.

§ 1. Every male person resident of this state who shall be of the age of twenty-one years and upwards, not otherwise disqualified, belonging to either of the following classes, who shall be a qualified elector under the laws of the Territory of Dakota at

the date of the ratification of this constitution by the people, or who shall have resided in the United States one year, in this state six months, in the county thirty days and in the election precinct where he offers his vote ten days next preceding any election, shall be deemed a qualified elector at such election;

First. Citizens of the United States.

Second. Persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States upon the subject of naturalization.

§ 2. The legislature shall at its first session after the admission of the state into the union submit to a vote of the electors of the state the following question to be voted upon at the next general election held thereafter, namely: "Shall the word 'male' be stricken from the article of the constitution relating to elections and the right of suffrage." If a majority of the votes cast upon that question are in favor of striking out said word "male" it shall be stricken out and there shall thereafter be no distinction between males and females in the exercise of the right of suffrage at any election in this state.

NOTE—The above question was submitted to the people at the election held in November, 1890, and was rejected by the following vote: For 22,072, against 45,682.

§ 3. All votes shall be by ballot, but the legislature may provide for numbering ballots for the purpose of preventing any detecting fraud.

§ 4. All general elections shall be biennial.

§ 5. Electors shall in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections and in going to and returning from the same. And no elector shall be obliged to do military duty on the days of elections, except in time of war or public danger.

§ 6. No elector shall be deemed to have lost his residence in this state by reason of his absence on business of the United States or of this state, or in the military or naval service of the United States.

§ 7. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this state in consequence of being stationed therein.

§ 8. No person under guardianship, non compos mentis or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony be qualified to vote at any election unless restored to civil rights.

§ 9. Any woman having the qualifications enumerated in Section 1, of this article, as to age residence and citizenship and including those now qualified by the laws of the territory, may vote at any election held solely for school purposes, and may hold any office in this state except as otherwise provided in this constitution.

## ARTICLE VIII.

### EDUCATION AND SCHOOL LANDS.

§ 1. The stability of a republican form of government depending on the morality and intelligence of the people, it shall be the duty of the legislature to establish and maintain a general and uniform system of public schools, wherein tuition shall be without charge, and equally open to all, and to adopt all suitable means to secure to the people the advantages and opportunities of education.

§ 2. All proceeds of the sale of public lands have heretofore been or may hereafter be given by the United States for the use of the public schools in the state; all such per centum as may be granted by the United States on the sales of public lands; the proceeds of all property that shall fall to the state by escheat; the proceeds of all gifts or donations to the state for public schools or not otherwise appropriated by the terms of the gift; and all property otherwise acquired for public schools shall be and

remain a perpetual fund for the maintenance of public schools in the state. It shall be deemed a trust fund held by the state. The principal shall forever remain inviolate; and may be increased, but shall never be diminished, and the state shall make good all losses thereof which may in any manner occur.

§ 3. The interest and income of this fund, together with the net proceeds of all fines for violation of state laws and all other sums which may be added thereto by law, shall be faithfully used and applied each year for the benefit of the public schools of the state, and shall be for this purpose apportioned among and between all the several public school corporations of the state in proportion to the number of children in each, of school age, as may be fixed by law; and no part of the fund, either principal or interest, shall ever be diverted, even temporarily, from this purpose or used for any other purpose whatever than the maintenance of public schools for the equal benefit of all the people of the state.

§ 4. After one year from the assembling of the first legislature the lands granted to the state by the United States for the use of public schools may be sold upon the following conditions and no other: Not more than one-third of all such lands shall be sold within the first five years, and no more than two thirds within the first fifteen years after the title thereto is vested in the state, and the legislature shall, subject to the provisions of this article, provide for the sale of the same.

The commissioner of school and public lands, the state auditor and the county superintendent of schools of the counties severally, shall constitute boards of appraisal and shall appraise all school lands within the several counties which they may from time to time select and designate for sale at their actual value under the terms of sale.

They shall take care to first select and designate for sale the most valuable lands, and they shall ascertain all such lands as may be of special and peculiar value, other than agricultural, and cause the proper subdivision of the same in order that the largest price may be obtained thereof.

§ 5. No land shall be sold for less than the appraised value, and in no case for less than ten dollars an acre. The purchaser shall pay one-fourth of the price in cash, and the remaining three-fourths as follows: One-fourth in five years, one-fourth in ten years; and one-fourth in fifteen years; with interest thereon at the rate of not less than six per centum per annum, payable annually in advance, but all such subdivided lands may be sold for cash, provided that upon payment of the interest for one full year in advance, the balance of the purchase price may be paid at any time. All sales shall be at public auction to the highest bidder, after sixty days advertisement of the same in a newspaper of general circulation in the vicinity of the lands to be sold, and one at the seat of government. Such lands as shall not have been specially subdivided shall be offered in tracts of not more than eighty acres, and those so subdivided in the smallest subdivisions. All lands designated for sale and not sold within four years after appraisal, shall be reappraised by the board of appraisal as hereinbefore provided before they are sold.

§ 6. All sales shall be conducted through the office of the commissioner of school and public lands as may be prescribed by law, and returns of all appraisals and sales shall be made to said office. No sale shall operate to convey any right or title to any lands for sixty days after the date thereof, nor until the same shall have received the approval of the governor in such form as may be provided by law. No grant or patent for any such lands shall issue until final payment be made.

§ 7. All lands, money or other property donated, granted, or received from the United States or any other source for a university, agricultural college, normal schools or other educational or charitable institution or purpose, and the proceeds of all such lands and other property so received from any source, shall be and remain perpetual funds, the interest and income of which, together with the rents of all such



lands as may remain unsold, shall be inviolably appropriated and applied to the specific objects of the original grants or gifts. The principal of every such fund may be increased, but shall never be diminished, and the interest and income only shall be used. Every such fund shall be deemed a trust fund held by the state, and the state shall make good all losses therefrom that shall in any manner occur.

§ 8. All lands mentioned in the preceding section shall be appraised and sold in the same manner and by the same officers and boards under the same limitations and subject to all the conditions as to price, sale and approval provided above for the appraisal and sale of lands for the benefit of public schools, but a distinct and separate account shall be kept by the proper officers of each of such funds.

§ 9. No lands mentioned in this article shall be leased except for pasturage and meadow purposes, and at public auction after notice as hereinbefore provided in case of sale, and shall be offered in tracts not greater than one section. All rents shall be payable annually in advance, and no term of lease shall exceed five years, nor shall any lease be valid until it receives the approval of the governor.

§ 10. No claim to any public lands by any trespasser thereon by reason of occupancy, cultivation or improvement thereof, shall ever be recognized; nor shall compensation ever be made on account of any improvements made by such trespasser.

§ 11. The moneys of the permanent school and other educational funds shall be invested only in first mortgages upon good improved farm lands within this state as hereinafter provided, or in bonds of school corporations within the state, or in bonds of the United States, or of the State of South Dakota. The legislature shall provide by law the method of determining the amounts of said funds, which shall be invested from time to time in such classes of securities respectively, taking care to secure continuous investments as far as possible.

All moneys of said funds which may from time to time be designated for investment in farm mortgages and in the bonds of school corporations, shall for such purpose be divided among the organized counties of the state in proportion to population as nearly as provisions by law to secure continuous investments may permit. The several counties shall hold and manage the same as trust funds, and they shall be and remain responsible and accountable for the principal and interest of all such moneys received by them from the date of receipt until returned because not loaned; and in case of loss to any money so apportioned to any county, such county shall make the same good out of its common revenue. Counties shall invest said money in bonds of school corporations, or in first mortgages upon good improved farm lands within their limits respectively; but no farm loan shall exceed five hundred dollars to any one person, nor shall it exceed one-half the valuation of the land as assessed for taxation, and the rate of interest shall not be less than six per centum per annum, and shall be such other and higher rate as the legislature may provide, and shall be payable semi-annually on the first day of January and July; Provided, that wherever there are moneys of said fund in any county amounting to one thousand dollars that cannot be loaned according to the provisions of this section and any law pursuant thereto, the said sum may be returned to the state treasurer to be intrusted to some other county or counties, or otherwise invested under the provisions of this section.

Each county shall semi-annually, on the first day of January and July, render an account of the condition of the funds intrusted to it to the auditor of state, and at the same time pay to or account to the state treasurer for the interest due on all funds intrusted to it.

The legislature may provide by general law that counties may retain from interest collected in excess of six per centum per annum upon all said funds intrusted to them not to exceed one per centum per annum. But no county shall be exempted from the obligation to make semi-annual payments to the state treasury of interest at the



rate provided by law for such loans, except only said one per centum; and in no case shall the interest so to be paid be less than six per centum per annum.

The legislature shall provide by law for the safe investment of the permanent school and other educational funds, and for the prompt collection of interest and income thereof, and to carry out the objects and provisions of this section.

NOTE—The foregoing Section was amended by popular vote at the general election held November 4, 1902, by a vote of 46,472 yes, to 9,001 no. as follows:

The rate of interest upon all investments of the permanent school or other educational funds mentioned in Section 11 of Article VIII, of the Constitution of this state is hereby changed and reduced from six per centum per annum to five per centum per annum, wherever the said words six per centum occur in said section. That if the foregoing amendment shall be approved and ratified by the people at said election, as provided by Article XXIII of the Constitution, said Section 11 of Article VIII of the Constitution shall be thereby amended by striking out the said words six per centum per annum wherever they occur in said section 11 and substituting in lieu thereof the words five per centum per annum."

§ 12. The governor may disapprove any sale, lease or investment other than such as are intrusted to the counties.

§ 13. All losses to the permanent school or other educational funds of this state which shall have been occasioned by the defalcation, negligence, mismanagement or fraud of the agents or officers controlling and managing the same, shall be audited by the proper authorities of the state. The amount so audited shall be a permanent funded debt against the state in favor of the fund sustaining the loss upon which not less than six per centum of annual interest shall be paid. The amount of indebtedness so created shall not be counted as a part of the indebtedness mentioned in Article XIII, Section 2.

§ 14. The legislature shall provide a law for the protection of the school lands from trespass or unlawful appropriation, and for their defense against all unauthorized claims or efforts to divert them from the school fund.

§ 15. The legislature shall make such provision by general taxation, and by authorizing the school corporations to levy such additional taxes, as with the income from the permanent school fund shall secure a thorough and efficient system of common schools throughout the state.

§ 16. No appropriation of lands, money or other property or credits to aid any sectarian school shall ever be made by the state, or any county or municipality within the state, nor shall the state or any county or municipality within the state accept any grant, conveyance, gift or bequest of lands, money or other property to be used for sectarian purposes, and no sectarian instruction shall be allowed in any school or institution aided or supported by the state.

§ 17. No teacher, state, county, township or district school officer shall be interested in the sale, proceeds or profits of any book, apparatus or furniture used or to be used in any school in this state, under such penalties as shall be provided by law.

## ARTICLE IX.

### COUNTY AND TOWNSHIP ORGANIZATION.

§ 1. The legislature shall provide by general law for organizing new counties, location of county seats thereof and changing county lines; but no new counties shall be organized so as to include an area of less than twenty-four congressional townships, as near as may be without dividing a township or fractional township, nor shall the boundaries of any organized county be changed so as to reduce the same to a less area than above specified. All changes in county boundaries in counties already organized, before taking effect, shall be submitted to the electors of the county or counties to be affected thereby, at the next general election thereafter and be adopted by a majority of the votes cast in each county at such election. Counties now organized shall remain as they are unless changed according to the above provisions.

§ 2. In counties already organized where the county seat has not been located by a majority vote, it shall be the duty of the county board to submit the location of the county seat to the electors of said county at a general election. The place receiving a majority of all votes cast at said election shall be the county seat of said county.

Manual—7.

§ 3. Whenever a majority of the legal voters of any organized county shall petition the county board to change the location of the county seat which has once been located by a majority vote, specifying the place to which it is to be changed, said county board shall submit the same to the people of said county at the next general election, and if the proposition to change the county seat be ratified by two-thirds of the votes cast at said election, then the county seat shall be changed, otherwise not. A proposition to change the location of the county seat of any organized county shall not again be submitted before the expiration of four years.

"A proposition to change the location of the county seat of any organized county shall not be submitted before the expiration of four years."

NOTE—The foregoing Section was amended by popular vote at the general election held November 4, 1902, by a vote of 36,436 yes, to 14,612 no, as follows:

"Whenever a majority of the legal voters of any organized county shall petition the board to change the location of the county seat which has once been located by a majority vote, specifying the place to which it is to be changed, said board shall submit the same to the people of the said county at the next general election, and if the proposition to change the county seat be ratified by two-thirds of the votes cast at said election (except as hereinafter provided) then the county seat shall be changed, otherwise not; *Provided*, however, that in cases where the county seat is not located at a railroad station and it is proposed to remove the same to a railroad station, then the proposition to change the county seat may be ratified by three-fifths of the votes cast at said election, upon the question of such removal and in such case if the proposition to change the county seat be ratified by three-fifths of the votes cast at said election upon the question of such removal then the county seat shall be changed, otherwise not.

§ 4. The legislature shall provide by general law for organizing the counties into townships, having due regard for congressional township lines and natural boundaries, and whenever the population is sufficient and the natural boundaries will permit, the civil townships shall be co-extensive with the congressional townships.

§ 5. In each organized county at the first general election held after the admission of the State of South Dakota into the union, and every two years thereafter, there shall be elected a clerk of the court, sheriff, county auditor, register of deeds, treasurer, state's attorney, surveyor, coroner, and superintendent of schools, whose terms of office respectively shall be two years, and except the clerk of court, no person shall be eligible for more than four years in succession to any of the above named offices.

§ 6. The legislature shall provide by general law for such county, township and district offices as may be deemed necessary, and shall prescribe the duties and compensation of all county, township and district officers.

§ 7. All county, township and district officers shall be electors in the county, township or district in which they are elected, provided that nothing in this section shall prevent the holding of school offices by any person, as provided in Section 9, Article VII.

## ARTICLE X.

### MUNICIPAL CORPORATIONS.

§ 1. The legislature shall provide by general laws for the organization and classification of municipal corporations. The number of such classes shall not exceed four, and the powers of each class shall be defined by general laws, so that no such corporation shall have any powers, or be subject to any restrictions other than those of all corporations of the same class. The legislature shall restrict the power of such corporations to levy taxes and assessments, borrow money and contract debts, so as to prevent the abuse of such power.

§ 2. Except as otherwise provided in this constitution, no tax or assessment shall be levied or collected, or debts contracted by municipal corporations, except in pursuance of law, for public purposes specified by law; nor shall money raised by taxation, loan or assessment, for one purpose ever be diverted to any other.

§ 3. No street passenger railway or telegraph or telephone lines shall be constructed within the limits of any village, town or city without the consent of its local authorities.

## ARTICLE XI.

### REVENUE AND FINANCE.

§ 1. The legislature shall provide for an annual tax, sufficient to defray the estimated ordinary expenses of the state, for each year, not to exceed in any one year

two mills on each dollar of the assessed valuation of all taxable property in the state, to be ascertained by the last assessment made for state and county purposes.

And whenever it shall appear that such ordinary expenses shall exceed the income of the state for such year, the legislature shall provide for levying a tax for the ensuing year, sufficient with other sources of income, to pay the deficiency of the preceding year, together with the estimated expenses of such ensuing year. And for the purpose of paying the public debt, the legislature shall provide for levying a tax annually, sufficient to pay the annual interest and the principal of such debt within ten years from the final passage of the law creating the debt, provided that the annual tax for the payment of the interest and principal of the public debt shall not exceed in any one year two mills on each dollar of the assessed valuation of all taxable property in the state as ascertained by the last assessment for the state and county purposes.

§ 2. All taxes to be raised in this state shall be uniform on all real and personal property; according to its value in money, to be ascertained by such rules of appraisement and assessment as may be prescribed by the legislature by general law, so that every person and corporation shall pay a tax in proportion to the value of his, her or its property. And the legislature shall provide by general law for the assessing and levying of taxes on all corporation property as near as may be by the same methods as are provided for assessing and levying of taxes on individual property.

§ 3. The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the state shall be a party.

§ 4. The legislature shall provide for taxing all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise; and also for taxing the notes and bills discounted or purchased, moneys loaned and all other property effects, or dues of every description, of all banks and of all bankers, so that all property employed in banking shall always be subject to a taxation equal to that imposed on the property of individuals.

§ 5. The property of the United States and of the state, county, and municipal corporations, both real and personal, shall be exempt from taxation.

§ 6. The legislature shall, by general law, exempt from taxation, property used exclusively for agricultural and horticultural societies, for school, religious, cemetery and charitable purposes, and personal property to any amount not exceeding in value two hundred dollars, for each individual liable to taxation.

§ 7. All laws exempting property from taxation other than that enumerated in Sections 5 and 6 of this article, shall be void.

§ 8. No tax shall be levied except in pursuance of a law, which shall distinctly state the object of the same, to which the tax only shall be applied.

§ 9. All taxes levied and collected for state purposes shall be paid into the state treasury. No indebtedness shall be incurred or money expended by the state, and no warrant shall be drawn upon the state treasurer except in pursuance of an appropriation for a specific purpose first made. The legislature shall provide by suitable enactment for carrying this section into effect.

§ 10. The legislature may vest the corporate authority of cities, towns and villages with power to make local improvements by special taxation of contiguous property or otherwise. For all corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes; but such tax shall be uniform in respect to persons and property within the jurisdiction of the body levying the same.

§ 11. The making of profit, directly or indirectly, out of state, county, city, town or school district money, or using the same for any purpose not authorized by law, shall be deemed a felony and shall be punished as provided by law.

§ 12. An accurate statement of the receipts and expenditures of the public moneys shall be published annually in such manner as the legislature may provide.



## ARTICLE XII.

## PUBLIC ACCOUNTS AND EXPENDITURES.

§ 1. No money shall be paid out of the treasury except upon appropriation by law and on warrant drawn by the proper officer.

§ 2. The general appropriation bill shall embrace nothing but appropriations for ordinary expenses of the executive, legislative and judicial departments of the state, the current expenses of state institutions, interest on the public debt, and for common schools. All other appropriations shall be made by separate bills, each embracing but one object, and shall require a two-thirds vote of all the members of each branch of the legislature.

§ 3. The legislature shall never grant any extra compensation to any public officer, employe, agent or contractor after the services shall have been rendered or the contract entered into, nor authorize the payment of any claims or part thereof created against the state, under any agreement or contract made without express authority of law, and all such unauthorized agreements or contracts shall be null and void; nor shall the compensation of any public officer be increased or diminished during his term of office; *Provided, however*, that the legislature may make appropriations for expenditures incurred in suppressing insurrection or repelling invasion.

§ 4. An itemized statement of all receipts and expenditures of the public moneys shall be published annually in such manner as the legislature shall provide, and such statements shall be submitted to the legislature at the beginning of each regular session by the governor with his message.

## ARTICLE XIII.

## PUBLIC INDEBTEDNESS.

§ 1. Neither the state nor any county, township or municipality shall loan or give its credit or make donations to or in aid of any individual, association or corporation except for the necessary support of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation, nor pay or become responsible for the debt or liability of any individual, association or corporation; *Provided*, that the state may assume or pay such debt or liability when incurred in time of war for the defense of the state. Nor shall the state engage in any work of internal improvement.

§ 2. For the purpose of defraying extraordinary expenses and making public improvements, or to meet casual deficits or failure in revenue, the state may contract debts never to exceed, with previous debts, in the aggregate \$100,000, and no greater indebtedness shall be incurred except for the purpose of repelling invasion, suppressing insurrection, or defending the state or the United States in war, and provision shall be made by law for the payment of the interest annually and the principal when due, by tax levied for the purpose, or from other sources of revenue; which law providing for the payment of such interest and principal by such tax or otherwise shall be irrevocable until such debt is paid; *Provided, however*, the state of South Dakota shall have the power to refund the territorial debt assumed by the State of South Dakota, by bonds of the State of South Dakota.

§ 3. That the indebtedness of the State of South Dakota, limited by Sec. 2 of this article shall be in addition to the debt of the Territory of Dakota, assumed by and agreed to be paid by South Dakota.

\*Note—The following amendment was adopted by popular vote of 28,490 for and 14,789 against, at the general election of 1896.

§ 1. AMENDMENT.] That Section 4, of Article 13, of the Constitution of the State of South Dakota, be amended so as to read as follows: "Section 4. The debt of any county, city, town, school district, civil township, or other subdivision, shall never exceed five (5) per centum upon the assessed value of the taxable property therein. In estimating the amount of indebtedness which a municipality or subdivision may incur the amount of indebtedness contracted prior



to the adoption of this constitution shall be included; Provided, that any county, municipal corporation, civil township, district or other subdivision may incur an additional indebtedness not exceeding ten per centum upon the assessed value of the taxable property therein for the purpose of providing water for irrigation and domestic uses." Provided, further, that no county, municipal corporation or civil township shall be included within any district or subdivision without a majority vote in favor thereof of the electors of the county, municipal corporation or civil township as the case may be which is proposed to be included therein, and no such debt shall ever be incurred for any of the purposes in this section provided; unless authorized by a vote in favor thereof of a majority of the electors of such county, municipal corporation, civil township, district or subdivision incurring the same.

NOTE—The foregoing Section was amended by popular vote at the general election held November 4, 1902, by a vote of 32,810 yes, to 13,599 no, as follows:

"SECTION 4. The debt of any county, city, town, school district, civil township or other sub-division, shall never exceed five (5) per centum upon the assessed valuation of the taxable property therein for the year preceding that in which said indebtedness is incurred.

"In estimating the amount of the indebtedness which a municipality or sub-division may incur, the amount of indebtedness contracted prior to the adoption of the Constitution shall be included:

"*Provided*, That any county, municipal corporation, civil township, district or other sub-division may incur an additional indebtedness not exceeding ten per centum upon the assessed valuation of the taxable property therein for the year preceding that in which said indebtedness is incurred, for the purpose of providing water and sewerage for irrigation, domestic uses, sewerage and other purposes; and

"*Provided further*, That in a city where the population is 8,000 or more, such city may incur an indebtedness not exceeding eight per centum upon the assessed valuation of the taxable property therein for the year next preceding that in which said indebtedness is incurred, for the purpose of constructing street railways, electric lights, or other lighting plants.

"*Provided, further*, That no county, municipal corporation, civil township, district or sub-division shall be included within such district or sub-division without a majority vote in favor thereof of the electors of the county, municipal corporation, civil township, district or other sub-division as the case may be, which is proposed to be included therein, and no such debt shall ever be incurred for any of the purposes in this section provided, unless authorized by a vote in favor thereof by a majority of the electors of such county, municipal corporation, civil township, district or sub-division incurring the same."

§ 5. Any city, county, town, school district or any other subdivision incurring indebtedness shall, at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest, or principal of any debt shall be irrevocable until such debt be paid.

§ 6. In order that the payment of the debts and liabilities contracted or incurred by and in behalf of the Territory of Dakota may be justly and equitably provided for and made, and in pursuance of the requirements of an act of congress approved February 22, 1889, entitled, "An Act to provide for the division of Dakota into two states and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments and to be admitted into the Union on an equal footing with the original states, and to make donations of public lands to such states," the states of North Dakota and South Dakota, by proceedings of a joint commission, duly appointed under said act, the sessions whereof were held in Bismarck, in said State of North Dakota, from July 16, 1889, to July 31, 1889, inclusive, have agreed to the following adjustment of the amounts of the debts and liabilities of the Territory of Dakota which shall be assumed and paid by each of the States of North Dakota and South Dakota respectively, to wit:

1. This agreement shall take effect and be in force from and after the admission into the Union, as one of the United States of America, of either the State of North Dakota or the State of South Dakota.

2. The words "State of North Dakota" wherever used in this agreement, shall be taken to mean the Territory of North Dakota, in case the State of South Dakota shall be admitted into the Union prior to the admission into the Union of the State of North Dakota; and the words "State of South Dakota" wherever

used in this agreement, shall be taken to mean the territory of South Dakota, in case the State of North Dakota shall be admitted into the Union prior to the admission into the Union of the State of South Dakota.

3. The said State of North Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of North Dakota, and shall pay all warrants issued under and by virtue of that certain act of the legislative assembly of the Territory of Dakota, approved March 3, 1889, entitled, "An Act to provide for the refunding of outstanding warrants drawn on the capitol building fund."

4. The said State of South Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of South Dakota.

5. That is to say: The State of North Dakota shall assume and pay the following bonds and indebtedness, towit: Bonds issued on account of the hospital for insane at Jamestown, North Dakota, the face aggregate of which is two hundred and sixty-six thousand dollars; also, bonds issued on account of the North Dakota University at Grand Forks, North Dakota, the face aggregate of which is ninety-six thousand seven hundred dollars; also bonds issued on account of the penitentiary at Bismarck, North Dakota, the face aggregate of which is ninety-three thousand six hundred dollars; also, refunding capitol building warrants dated April 1, 1889, eighty three thousand five hundred and seven dollars and forty-six cents.

And the State of South Dakota shall assume and pay the following bonds and indebtedness, towit: Bonds issued on account of the Hospital for the Insane at Yankton, South Dakota, the face aggregate of which is two hundred and ten thousand dollars; also, bonds issued on account of the school for deaf mutes at Sioux Falls, South Dakota, the face aggregate of which is fifty-one thousand dollars; also bonds issued on account of the University at Vermillion, South Dakota, the face aggregate of which is seventy-five thousand dollars; also bonds issued on account of the penitentiary at Sioux Falls, South Dakota, the face aggregate of which is ninety-four thousand three hundred dollars; also, bonds issued on account of agricultural college at Brookings, South Dakota, the face aggregate of which is ninety-seven thousand five hundred dollars; also bonds issued on account of the normal school at Madison, South Dakota, the face aggregate of which is forty-nine thousand four hundred dollars; also bonds issued on account of [the] School of Mines at Rapid City, South Dakota, the face aggregate of which is thirty-three thousand dollars; also, bonds issued on account of the reform school at Plankinton, South Dakota, the face aggregate of which is thirty thousand dollars; also, bonds issued on account of the normal school at Spearfish, South Dakota, the face aggregate of which is twenty-five thousand dollars; also, bonds issued on account of the soldiers' home at Hot Springs, South Dakota, the face aggregate of which is forty-five thousand dollars.

6. The states of North Dakota and South Dakota shall pay one half each of all liabilities now existing or hereafter and prior to the taking effect of this agreement incurred, except those heretofore and hereafter incurred on account of public institutions, grounds or buildings, except as otherwise herein specifically provided.

7. The State of South Dakota shall pay to the State of North Dakota forty-six thousand five hundred dollars on account of the excess of territorial appropriations for the permanent improvement of territorial institutions which under this agreement will go to South Dakota, and in full of the undivided one-half interest of North Dakota in the territorial library, and in full settlement of unbalanced accounts, and of all claims against the territory of whatever nature, legal or equitable, arising out of the alleged erroneous or unlawful taxation of the Northern Pacific railroad lands and the payment of said amount shall discharge and exempt the State of South Dakota from all liability for or on account of the several matters

heretofore referred to nor shall either state be called upon to pay or answer to any portion of liability hereafter arising or accruing on account of transactions heretofore had, which liability would be a liability of the Territory of Dakota, had such territory remained in existence, and which liability shall grow out of matters connected with any public institution, grounds or buildings of the territory situated or located within the boundaries of the other state.

8. A final adjustment of accounts shall be made upon the following basis: North Dakota shall be charged with all sums paid on account the public institutions, grounds or buildings located within its boundaries on account of the current appropriations since March 8, 1889; and South Dakota shall be charged with all sums paid on account of public institutions, grounds or buildings located within its boundaries on the same account and during the same time. Each state shall be charged with one-half of all other expenses of the territorial government during the same time. All moneys paid into the treasury during the period from March 8, 1889, to the time of taking effect of this agreement by any county, municipality or person within the limits of the proposed State of North Dakota, shall be credited to the State of North Dakota; and all sums paid into said treasury within the same time by any county, municipality or person within the limits of the proposed State of South Dakota, shall be credited to the State of South Dakota; except that any and all taxes on gross earnings paid into said treasury by railroad corporations since the eighth day of March, 1889, based upon earnings of years prior to 1888, under and by virtue of the act of the legislative assembly of the Territory of Dakota approved March 7, 1889, and entitled "An Act providing for the levy and collection of taxes upon property of railroad companies in this territory," being Chapter 107 of the Session Laws of 1889, (that is, the part of such sum going to the territory) shall be equally divided between the States of North Dakota and South Dakota, and all taxes heretofore or hereafter paid into the said treasury under and by virtue of the act last mentioned, based on the gross earnings of the year 1888, shall be distributed as already provided by law, except that so much thereof as goes to the territorial treasury shall be divided as follows: North Dakota shall have so [much] thereof as shall be or has been paid by railroads within the limits of the proposed state of North Dakota, and South Dakota so much thereof as shall be or has been paid by railroads within the limits of the proposed State of South Dakota. Each state shall be credited also with all balances of appropriations made by the seventeenth legislative assembly of the Territory of Dakota for the account of public institutions, grounds or buildings situated within its limits, remaining unexpended on March 8, 1889. If there be any indebtedness except the indebtedness represented by the bonds and refunding warrants hereinbefore mentioned, each state shall at the time of such final adjustments of accounts, assume its share of said indebtedness as determined by the amount paid on account of the public institutions, grounds or buildings of such state in excess of the receipts from counties, municipalities, railroad corporations or persons within the limits of said state as provided in this article; and if there should be a surplus at the time of such final adjustment, each state shall be entitled to the amounts received from counties, municipalities and railroad corporations or persons within the limits over and above the amount charged to it.

§ 7. And the State of South Dakota hereby obligates itself to pay such part of the debts and liabilities of the Territory of Dakota as is declared by the foregoing agreements to be its proportion thereof, the same as if such proportion had been originally created by said State of South Dakota as its own debt or liability.

§ 8. The territorial treasurer is hereby authorized and empowered to issue refunding bonds to the amount of \$107,500, bearing interest not to exceed the rate of four per cent per annum, for the purpose of refunding the following described indebtedness of the Territory of Dakota, to wit:

Seventy-seven thousand five hundred dollars 5 per cent bonds dated May 1, 1883, issued for the construction of the west wing of the insane hospital at Yankton, and \$30,000 6 per cent bonds dated May 1, 1883, issued for permanent improve-



ments [of the] Dakota penitentiary at Sioux Falls, such refunding bonds, if issued, to run for not more than twenty years, and shall be executed by the governor and treasurer of the territory and shall be attested by the secretary under the great seal of the territory.

In case such bonds are issued by the territorial treasurer as hereinafter set forth before the first day of October, 1889, then upon the admission of South Dakota as a state it shall assume and pay said bonds in lieu of the aforesaid territorial indebtedness.

#### ARTICLE XIV.

##### STATE INSTITUTIONS.

§ 1. The charitable and penal institutions of the State of South Dakota shall consist of a penitentiary, insane hospital, a school for the deaf and dumb, a school for the blind and a reform school.

§ 2. The state institutions provided for in the preceding section shall be under the control of a state board of charities and corrections, under such rules and restrictions as the legislature shall provide; such board to consist of not to exceed five members, to be appointed by the governor and confirmed by the senate, and whose compensation shall be fixed by law.

\*The following amendment was adopted by popular vote of 31,061 for, and 11,690 against at the general election of 1896.

§ 1. AMENDMENT.] That Section three (3) of Article fourteen (14) of the Constitution be amended so as to read as follows:

§ 3. The state university, the agricultural college, the normal schools and all other educational institutions that may be sustained either wholly or in part by the state, shall be under the control of a board of five members appointed by the governor and confirmed by the senate under such rules and restrictions as the legislature shall provide. The legislature may increase the number of members to nine.

§ 2. AMENDMENT.] That Article fourteen (14) of the Constitution be amended by striking out Section four (4) of the same.

§ 3. TERM OF OFFICE.] From the time of the taking effect of this amendment the terms of office of all trustees theretofore appointed shall cease and determine.

§ 5. The legislature shall provide that the science of mining and metallurgy be taught in at least one institution of learning under the patronage of the state.

#### ARTICLE XV.

##### MILITIA.

§ 1. The militia of the State of South Dakota shall consist of all able-bodied male persons residing in the state, between the ages of eighteen and forty-five years, except such persons as now are, or hereafter may be, exempted by the laws of the United States or of this state.

§ 2. The legislature shall provide by law for the enrollment, uniforming, equipment and discipline of the militia, and the establishment of volunteer and such other organizations or both, as may be deemed necessary for the protection of the state, the preservation of order and the efficiency and good of the service.

§ 3. The legislature in providing for the organization of the militia, shall conform, as nearly as practicable, to the regulations for the government of the armies of the United States.

§ 4. All militia officers shall be commissioned by the governor and may hold their commissions for such period of time as the legislature may provide, subject to removal by the governor for cause, to be first ascertained by a court-martial pursuant to law.

§ 5. The militia shall in [all] cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at muster and elections, and in going to and returning from the same.

§ 6. All military records, banners, and relics of the state, except when in lawful use, shall be preserved in the office of the adjutant general as an enduring

memorial of the patriotism and valor of South Dakota; and it shall be the duty of the legislature to provide by law for the safe keeping of the same.

§ 7. No person having conscientious scruples against bearing arms shall be compelled to do military duty in time of peace.

## ARTICLE XVI.

## IMPEACHMENT AND REMOVAL FROM OFFICE.

§ 1. The house of representatives shall have the sole power of impeachment. The concurrence of a majority of all members elected shall be necessary to an impeachment.

§ 2. All impeachments shall be tried by the senate. When sitting for that purpose the senator shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. When the governor or lieutenant governor is on trial the presiding judge of the supreme court shall preside.

§ 3. The governor and other state and judicial officers except county judges, justices of the peace and police magistrates shall be liable to impeachment for drunkenness, crimes, corrupt conduct, or malfeasance or misdemeanor in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of trust or profit under the state. The person accused whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

§ 4. All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance or crime or misdemeanor in office or for drunkenness or gross incompetency, in such manner as may be provided by law.

§ 5. No officer shall exercise the duties of his office after he shall have been impeached, and before his acquittal.

§ 6. On trial of an impeachment against the governor the lieutenant governor shall not act as a member of the court.

§ 7. No person shall be tried on impeachment before he shall have been served with a copy thereof at least twenty days previous to the day set for trial.

§ 8. No person shall be liable to impeachment twice for the same offense.

## ARTICLE XVII.

## CORPORATIONS.

§ 1. No corporation shall be created or have its charter extended, changed, or amended by special laws, except those for charitable, educational, penal or reformatory purposes, which are to be and remain under the patronage and control of the state; but the legislature shall provide by general laws for the organization of all corporations hereafter to be created.

§ 2. All existing charters, or grants of special or exclusive privileges, under which a *bona fide* organization shall not have taken place and business been commenced in good faith at the time this constitution takes effect, shall thereafter have no validity.

§ 3. The legislature shall not remit the forfeiture of the charter of any corporation now existing nor alter or amend the same nor pass any other general or special laws for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this constitution.

§ 4. The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the legislature from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals, and the exercise of the police power of the state shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well being of the state.

§ 5. In all elections for directors or managers of a corporation each mem-

ber or shareholder may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates as he may prefer.

§ 6. No foreign corporations shall do any business in this state without having one or more known places of business and an authorized agent or agents, in the same upon whom process may be served.

§ 7. No corporation shall engage in any business other than that expressly authorized in its charter, nor shall it take or hold any real estate except such as may be necessary and proper for its legitimate business.

§ 8. No corporation shall issue stocks or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and indebtedness of corporations shall not be increased except in pursuance of general law nor without the consent of the persons holding the larger amount in value of the stock first obtained, at a meeting to be held after sixty days' notice given in pursuance of law.

§ 9. The legislature shall have the power to alter, revise or annul any charter of any corporation now existing and revokable at the taking effect of this constitution, or any that may be created, whenever in their opinion it may be injurious to the citizens of this state, in such manner, however, that no injustice shall be done to the incorporators. No law hereafter enacted shall create, renew or extend the charter of more than one corporation.

§ 10. No law shall be passed by the legislature granting the right to construct and operate a street railroad within any city, town or incorporated village without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied by such street railroad.

§ 11. Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph in this state, and to connect the same with other lines; and the legislature shall by general law of uniform operation provide reasonable regulations to give full effect to this section. No telegraph company shall consolidate with or hold a controlling interest in the stock or bonds of any other telegraph company owning a competing line or acquire by purchase or otherwise any other competing line of telegraph.

§ 12. Every railroad corporation organized or doing business in this state under the laws or authority thereof shall have and maintain a public office or place in this state for the transaction of its business, where transfers of its stocks shall be made and in which shall be kept for public inspection books in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amount owned by them respectively; the amount of stock paid in and by whom; the transfers of said stock; the amount of its assets and liabilities, and the names and place of residence of its officers. The directors of every railroad corporation shall annually make a report, under oath, to the auditor of public accounts, or some officer or officers to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law, and the legislature shall pass laws enforcing by suitable penalties the provisions of this section.

§ 13. The rolling stock and all other movable property belonging to any railroad company or corporation in this state shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals, and the legislature shall pass no laws exempting such property from execution and sale.

§ 14. No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given out, at least sixty days to all stockholders in such manner as may be provided by law. Any attempt to evade the provisions of this section, by any railroad corporation, by lease or otherwise, shall work a forfeiture of its charter.

§ 15. Railways heretofore constructed or that may hereafter be constructed, in this state, are hereby declared public highways, and all railroads and transportation companies are declared to be common carriers and subject to legislative



control; and the legislature shall have power to enact laws regulating and controlling the rates of charges for the transportation of passengers and freight as such common carrier from one point to another in this state.

§ 16. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this state, and to connect at the state line with railroads of other states. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad, and shall receive and transport each the other's passengers, tonnage and cars, loaded or empty, without delay or discrimination.

§ 17. The legislature shall pass laws to correct abuses and prevent discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this state, and enforce such laws by adequate penalties, to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

§ 18. Municipal and other corporations and individuals invested with the privilege of taking private property for public use shall make just compensation for property taken, injured or destroyed, by the construction or enlargement of their works, highways or improvements, which compensation shall be paid or secured before such taking, injury or destruction. The legislature is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporation or individuals made by vieweurs or otherwise, and the amount of such damages, in all cases of appeal shall, on the demand of either party, be determined by a jury as in other civil cases.

§ 19. The term "corporations" as used in this article shall be construed to include all joint stock companies or associations having any of the powers or privileges of corporations not possessed by individuals or partnerships.

§ 20. Monopolies and trusts shall never be allowed in this state and no incorporated company, co-partnership or association of persons in this state shall directly or indirectly combine or make any contract with any incorporated company, foreign or domestic; through their stockholders or trustees or assigns of such stockholders or with any co-partnership or association of persons, or in any manner whatever to fix the prices, limit the production or regulate the transportation of any product or commodity so as to prevent competition in such prices, production or transportation or to establish excessive prices therefor.

The legislature shall pass laws for the enforcement of this section by adequate penalties and in the case of incorporated companies, if necessary for that purpose may, as a penalty, declare a forfeiture of their franchises.

NOTE—Section 20 was adopted as an amendment by popular vote at the general election in 1898 by a vote of 36,763 for and 9,136 against.

## ARTICLE XVIII.

### BANKING AND CURRENCY.

§ 1. If a general banking law shall be enacted it shall provide for the registry and countersigning by an officer of this state of all bills or paper credit designed to circulate as money, and require security to the full amount thereof, to be deposited with the state treasurer, in the approved securities of the state or of the United States, to be rated at ten per centum below their par value, and in case of their depreciation the deficiency shall be made good by depositing additional securities.

§ 2. Every bank, banking company or corporation shall be required to cease all banking operation within twenty years from the time of its organization, and promptly thereafter close its business, but shall have corporate capacity to sue or be sued until its business is fully closed, but the legislature may provide by general law for the reorganization of such banks.

§ 3. The shareholders or stockholders of any banking corporation shall be held individually responsible and liable for all contracts, debts and engagements of such corporations to the extent of the amount of their stock therein, at the par value thereof, in addition to the amount invested in such shares or stock; and

such additional liabilities shall continue for one year after any transfer or sale of stock by any stockholder or stockholders.

#### ARTICLE XIX.

##### CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT.

§ 1. Until otherwise provided by law, the members of the house of representatives of the United States, apportioned to this state, shall be elected by the state at large.

§ 2. Until otherwise provided by law, the senatorial and representative districts shall be formed, and the senators and representatives shall be apportioned as follows:

NOTE.—By an act of the legislature of 1897 the senate and representative districts were reapportioned as follows:

##### SENATORIAL DISTRICTS.

District No. 1, shall consist of the county of Union and be entitled to one senator.

District No. 2, shall consist of the county of Clay, and be entitled to one senator.

District No. 3, shall consist of the county of Yankton, and be entitled to one senator.

District No. 4, shall consist of the county of Bon Homme, and be entitled to one senator.

District No. 5 shall consist of the county of Lincoln, and be entitled to one senator.

District No. 6, shall consist of the county of Turner, and be entitled to one senator.

District No. 7 shall consist of the county of Hutchinson, and be entitled to one senator.

District No. 8 shall consist of the counties of Charles Mix and Douglas, and be entitled to one senator.

District No. 9 shall consist of the county of Minnehaha, and be entitled to two senators.

District No. 10 shall consist of the county of McCook, and be entitled to one senator.

District No. 11 shall consist of the county of Hanson, and be entitled to one senator.

District No. 12 shall consist of the county of Davison, and be entitled to one senator.

District No. 13 shall consist of the county of Aurora, and be entitled to one senator.

District No. 14 shall consist of the county of Brule, and be entitled to one senator.

District No. 15 shall consist of the county of Moody, and be entitled to one senator.

District no 16 shall consist of the county of Lake, and be entitled to one senator.

District No. 17 shall consist of the county of Miner, and be entitled to one senator.

District No. 18 shall consist of the county of Sanborn, and be entitled to one senator.

District No. 19 shall consist of the counties of Jerauld and Buffalo, and be entitled to one senator.

District No. 20 shall consist of the county of Brookings, and be entitled to one senator.

District No. 21 shall consist of the county of Kingsbury, and be entitled to one senator.

District No. 22 shall consist of the county of Beadle, and be entitled to one senator.

District No. 23 shall consist of the county of Hand and be entitled to one senator.

District No. 24 shall consist of the counties of Hughes, Sully and Hyde, and be

entitled to one senator.

District No. 25 shall consist of the counties of Stanley, Lyman, Presho Sterling, Nowlin, Jackson and Pratt, and be entitled to one senator.

District No. 26 shall consist of the county of Deuel, and be entitled to one senator.

District No. 27 shall consist of the county of Hamlin, and be entitled to one senator.

District No. 28 shall consist of the county of Codington, and be entitled to one senator.

District No. 29 shall consist of the county of Clark, and be entitled to one senator.

District No. 30 shall consist of the county of Spink, and be entitled to one senator.

District No. 31 shall consist of the county of Grant, and be entitled to one senator.

District No. 32 shall consist of the counties of Day and Marshall, and be entitled to two senators.

District No. 33 shall consist of the county of Brown, and be entitled to two senators.

District No. 34 shall consist of the county of Roberts, and be entitled to one senator.

District No. 35 shall consist of the counties of Faulk and Potter, and be entitled to one senator.

District No. 36 shall consist of the counties of Edmunds and Walworth, and be entitled to one senator.

District No. 37 shall consist of the counties of McPherson and Campbell, and be entitled to one senator.

District No. 38 shall consist of the county of Lawrence, and be entitled to two senators.

District No. 39 shall consist of the county of Pennington, and be entitled to one senator.

District No. 40 shall consist of the counties of Meade and Butte, and be entitled to one senator.

District No. 41 shall consist of the counties of Custer and Fall River, and be entitled to one senator.

#### REPRESENTATIVE DISTRICTS.

District No. 1 shall consist of the county of Union, and be entitled to three representatives.

District No. 2 shall consist of the county of Clay, and be entitled to two representatives.

District No. 3 shall consist of the county of Yankton, and be entitled to three representatives.

District No. 4 shall consist of the county of Lincoln, and be entitled to three representatives.

District No. 5 shall consist of the county of Turner, and be entitled to three representatives.

District No. 6 shall consist of the county of Hutchinson, and be entitled to three representatives.

District No. 7 shall consist of the county of Bon Homme, and be entitled to two representatives.

District No. 8 shall consist of the county of Douglas, and be entitled to one representative.

District No. 9 shall consist of the county of Charles Mix, and be entitled to one representative.

District No. 10 shall consist of the county of Minnehaha, and be entitled to five representatives.

District No. 11 shall consist of the county of McCook, and be entitled to two



representatives.

District No. 12 shall consist of the county of Hanson, and be entitled to one representative.

District No. 13 shall consist of the county of Davison, and be entitled to one representative.

District No. 14 shall consist of the county of Sanborn, and be entitled to one representative.

District No. 15 shall consist of the county of Aurora, and be entitled to one representative.

District No. 16 shall consist of the counties of Jerauld and Buffalo and be entitled to one representative.

District No. 17 shall consist of the county of Brule, and be entitled to two representatives.

District No. 18 shall consist of the county of Miner, and be entitled to one representative.

District No. 19 shall consist of the county of Lake, and be entitled to two representatives.

District No. 20 shall consist of the county of Moody, and be entitled to two representatives.

District 21 shall consist of the county of Brookings, and be entitled to three representatives.

District No. 22 shall consist of the county of Kingsbury, and be entitled to two representatives.

District No. 23 shall consist of the county of Beadle, and be entitled to two representatives.

District No. 24 shall consist of the county of Hand, and be entitled to one representative.

District No. 25 shall consist of the counties of Hyde, Hughes and Sully, and be entitled to two representatives.

District No. 26 shall consist of the counties of Lyman, Presho, Sterling, Nowlin, Jackson, Pratt and Stanley, and be entitled to one representative.

District No. 27 shall consist of the county of Clark, and be entitled to two representatives.

District No. 28 shall consist of the county of Codington, and be entitled to two representatives.

District No. 29 shall consist of the county of Hamlin, and be entitled to one representative.

District No. 30 shall consist of the county of Deuel, and be entitled to one representative.

District No. 31 shall consist of the county of Grant, and be entitled to two representatives.

District No. 32 shall consist of the county of Marshall and be entitled to one representative.

District No. 33 shall consist of the county of Roberts, and be entitled to two representatives.

District No. 34 shall consist of the county of Day and be entitled to three representatives.

District No. 35 shall consist of the county of Brown, and be entitled to four representatives.

District No. 36 shall consist of the county of Spink, and be entitled to two representatives.

District No. 37 shall consist of the county of Edmunds, and be entitled to one representative.

District No. 38 shall consist of the county of McPherson, and be entitled to one representative.

District No. 39 shall consist of the county of Walworth, and be entitled to one representative.

District No. 40 shall consist of the county of Campbell, and be entitled to one representative.

District No. 41 shall consist of the county of Potter, and be entitled to one

representative.

District No. 42 shall consist of the county of Faulk, and be entitled to one representative.

District No. 43 shall consist of the county of Custer, and be entitled to one representative.

District No. 44 shall consist of the county of Fall River, and be entitled to one representative.

District No. 45 shall consist of the county of Pennington, and be entitled to two representatives.

District No. 46 shall consist of the county of Meade, and be entitled to one representative.

District No. 47 shall consist of the county of Butte, and be entitled to one representative.

District No. 48 shall consist of the county of Lawrence, and be entitled to four representatives.

## ARTICLE XX.

### SEAT OF GOVERNMENT.

§ 1. The question of the location of the temporary seat of government shall be submitted to a vote of the electors of the proposed State of South Dakota, in the same manner and at the same election at which this constitution shall be submitted, and the place receiving the highest number of votes shall be the temporary seat of government until a permanent seat of government shall be established as hereinafter provided.

§ 2. The legislature at its first session after the admission of this state, shall provide for the submission of the question of a place for a permanent seat of government to the qualified voters of the state at the next general election thereafter, and that place which receives a majority of all the votes cast upon that question shall be the permanent seat of government.

§ 3. Should no place voted for at said election have a majority of all votes cast upon this question, the governor shall issue his proclamation for an election to be held in the same manner at the next general election to choose between the two places having received the highest number of votes cast at the first election on this question. This election shall be conducted in the same manner as the first election for the permanent seat of government, and the place receiving a majority of all the votes cast upon this question shall be the permanent seat of government.

## ARTICLE XXI.

### MISCELLANEOUS.

§ 1. SEAL AND COAT OF ARMS.] The design of the great seal of South Dakota shall be as follows: A circle within which shall appear in the left foreground a smelting furnace and other features of mining work. In the left background a range of hills. In the right foreground a farmer at his plow. In the right background a herd of cattle and a field of corn. Between the two parts thus described shall appear a river bearing a steamboat. Properly divided between the upper and lower edges of the circle shall appear the legend "Under God the People Rule." which shall be the motto of the state of South Dakota. Exterior to this circle and within a circumscribed circle shall appear, in the upper part, the words, "State of South Dakota." In the lower part the words "Great Seal," and the date in Arabic numerals of the year in which the state shall be admitted to the Union.

§ 2. COMPENSATION OF PUBLIC OFFICERS.] The governor shall receive an annual salary of two thousand five hundred dollars; the judges of the supreme court shall each receive an annual salary of two thousand five hundred dollars; the judges of the circuit court shall each receive an annual salary of two thousand dollars; *Provided*, that the legislature may, after the year one thousand eight

hundred and ninety, increase the annual salary of the governor and each of the judges of the supreme court to three thousand dollars, and the annual salary of the circuit court judges to two thousand five hundred dollars. The secretary of state, state treasurer and state auditor shall each receive an annual salary of one thousand eight hundred dollars; the commissioner of school and public lands shall receive an annual salary of one thousand eight hundred dollars; the superintendent of public instruction shall receive an annual salary of one thousand eight hundred dollars; the attorney general shall receive an annual salary of one thousand dollars; the compensation of the lieutenant governor shall be double the compensation of a state senator. They shall receive no fees or perquisites whatever for the performance of any duties connected with their offices. It shall not be competent for the legislature to increase the salaries of the officers named in this article except as herein provided.

§ 3. OATH OF OFFICE.] Every person elected or appointed to any office in this state except such inferior offices as may be by law exempted, shall, before entering upon the duties thereof, take an oath or affirmation to support the constitution of the United States and of this state, and faithfully to discharge the duties of his office.

§ 4. EXEMPTIONS.] The right of the debtor to enjoy the comforts and necessities of life shall be recognized by wholesome laws; exempting from forced sale a homestead, the value of which shall be limited and defined by law, to all heads of families, and a reasonable amount of personal property, the kind and value of which to be fixed by general law.

§ 5. RIGHTS OF MARRIED WOMEN.] The real and personal property of any women in this state acquired before marriage, and all property to which she may after marriage become in any manner rightfully entitled, shall be her separate property, and shall not be liable for the debts of her husband.

#### ARTICLE XXII.

##### COMPACT WITH THE UNITED STATES.

The following article shall be irrevocable without the consent of the United States and the people of the State of South Dakota expressed by their legislative assembly.

*First*—That perfect toleration of religious sentiment shall be secured, and that no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship.

*Second*—That we, the people inhabiting the State of South Dakota, do agree and declare that we forever disclaim all right and title to the unappropriated public lands lying within the boundaries of South Dakota, and to all lands lying within said limits owned or held by any Indian or Indian Tribes; and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States; and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States; that the lands belonging to the citizens of the United States residing without the said state shall never be taxed at a higher rate than the lands belonging to the residents of this state; that no taxes shall be imposed by the State of South Dakota on lands or property therein belonging to or which may be hereafter be purchased by the United States, or reserved for its use. But nothing herein shall preclude the State of South Dakota from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relation, and has obtained from the United States, or from any person, a title thereto, by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation. All such lands which may have been exempted by any grant or law of the United States shall remain exempt to the extent and as prescribed by such act of congress.

*Third*—That the State of South Dakota shall assume and pay that portion of the debts and liabilities of the Territory of Dakota as provided by this constitution.



*Fourth*—That provision shall be made for the establishment and maintenance of systems of public schools, which shall be open to all the children of this state, and free from sectarian control.

## ARTICLE XXIII.

## AMENDMENTS AND REVISIONS OF THE CONSTITUTION.

§ 1. Any amendment or amendments of this constitution may be proposed in either house of the legislature, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and it shall be the duty of the legislature to submit such proposed amendment or amendments to the vote of the people at the next general election. And if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become a part of this constitution. *Provided*, that the amendment or amendments so proposed shall be published for a period of twelve weeks previous to the date of said election, in such manner as the legislature may provide; and *Provided, further*, that if more than one amendment be submitted they shall be submitted in such manner that the people may vote for or against such amendments separately.

§ 2. Whenever two-thirds of the members elected to each branch of the legislature shall think it necessary to call a convention to revise this constitution they shall recommend to the electors to vote at the next election for members of the legislature, for or against a convention; and if a majority of all electors voting at said election shall have voted for a convention, the legislature shall, at their next session, provide by law for calling the same. The convention shall consist of as many members as the house of representatives of the legislature, and shall be chosen in the same manner, and shall meet within three months after their election for the purpose aforesaid.

## ARTICLE XXIV.

## PROHIBITION.

\*The following amendment was adopted by popular vote of 31,901 for, and 24,910 against at the general election of 1896:

"Shall Article Twenty-four of the Constitution be Repealed."

## ARTICLE XXV.

## MINORITY REPRESENTATION.

[To be submitted to a separate vote as provided by the schedule and ordinance.]

§ 1. The house of representatives shall consist of three times the number of the members of the senate, and the term of office shall be two years. Three representatives shall be elected in each senatorial district at the first general election held after this constitution takes effect, and every two years thereafter.

§ 2. In all elections of representatives aforesaid each qualified voter may cast as many votes for one candidate as there are representatives to be elected, or may distribute the same, or equal parts thereof, among the candidates as he may see fit; and the candidates highest in votes shall be declared elected. [Rejected October 1, 1889, by the following vote: For minority representation, 24,161; against minority representation, 46,200.]

## ARTICLE XXVI.

## SCHEDULE AND ORDINANCE.

§ 1. That no inconvenience may arise from the change of the territorial government to the permanent state government it is hereby declared that all writs, actions, prosecutions, claims and rights of individuals and all bodies corporate, shall continue as if no change had taken place in this government; and all process which may be before the organization of the judicial department under this constitution—8.

stitution issued under the authority of the Territory of Dakota, within the boundary of this state, shall be as valid as if issued in the name of the State of South Dakota.

§ 2. That all fines, penalties, forfeitures and escheats accruing to the Territory of Dakota, within the boundary of the State of South Dakota, shall accrue to the use of said state.

§ 3. That all recognizances, bonds, obligations or other undertakings, heretofore taken, or which may be taken before the organization of the judicial department under this constitution shall remain valid, and shall pass over to, and may be prosecuted in the name of the State of South Dakota; and all bonds, obligations or undertakings executed to this territory, within the boundaries of the State of South Dakota, or to any officer in his official capacity, shall pass over to the proper state authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly.

All criminal prosecutions and penal actions, which have arisen, or which may arise before the organization of the judicial department under this constitution, and which shall then be pending, may be prosecuted to judgment and executed in the name of the state.

§ 4. All officers, civil and military, now holding their offices and appointments in this territory under the authority of the United States, or under the authority of the Territory of Dakota, shall continue to hold and exercise their respective offices and appointments until superceded under this constitution; *Provided*, that the provisions of the above sections shall be subject to the provisions of the act of congress providing for the admission of the State of South Dakota, approved by the President of the United States on February 22, 1889.

§ 5. This constitution shall be submitted for adoption or rejection to a vote of the electors qualified by the laws of this territory to vote at all elections, at the election to be held on Tuesday, Oct. 1, 1889.

At the said election the ballots shall be in the following form:

For the constitution: Yes. No.

For prohibition: Yes. No.

For minority representation: Yes. No.

As a heading to each of said ballots shall be printed on each ballot the following instructions to voters:

All persons desiring to vote for the constitution, or for any of the articles submitted to a separate vote, must erase the word "No."

All persons who desire to vote against the constitution, or against any article submitted separately, must erase the word "Yes."

Any person may have printed or written on his ballot only the words "For the Constitution," or "Against the Constitution," and such ballots shall be counted for, or against the constitution accordingly. The same provisions shall apply to articles submitted separately.

In addition to the foregoing election for the constitution and for the articles submitted by this convention for a separate vote thereon, an election shall be held at the same time and places, by the said qualified electors, for the following state officers, to be voted for on the same ballot as above provided for votes on the constitution and separate articles, to wit:

A governor, lieutenant governor, secretary of state, auditor, treasurer, attorney general, superintendent of public instruction, commissioner of school and public lands, judges of the supreme, circuit and county courts, representatives in congress, state senators, and representatives in the legislature.

All the elections above provided for shall be held in the same manner and form as provided for the election for the adoption or rejection of the constitution, and the names of all the officers above specified to be voted for at such elections shall be written or printed upon the same ballots as the vote for or against the constitution.

The judges of election in counting the ballots voted at such election shall count all the affirmative ballots upon the constitution as votes for the constitution;

and they shall count all the negative ballots voted at said election upon the constitution as votes against the constitution; and ballots voted at said election upon which neither of said words "Yes" or "No" following the words "For the Constitution" are erased, shall not be counted upon such proposition. And they shall count all affirmative ballots so voted upon the article on prohibition, separately submitted as votes for such article, and they shall count all negative ballots so voted upon such article, as votes against such article; and ballots upon which neither the words "Yes" or "No" following the words "For Prohibition" are erased, shall not be counted upon such proposition; and they shall count all the affirmative ballots so voted upon the article on minority representation, separately submitted, as votes for such article. And they shall count all negative ballots so voted upon such article as votes against such article; and ballots upon which neither of said words "Yes" or "No" following the words "For Minority Representation" are erased, shall not be counted upon such proposition.

If it shall appear in accordance with the returns hereinafter provided for, that a majority of the votes polled at such election, for and against the constitution, are for the constitution, then this constitution shall be the constitution of the State of South Dakota. If it shall appear, according to the returns hereinafter provided for, that a majority of all votes cast at said election for and against "Prohibition" are for prohibition, then said Article XXIV shall be and form a part of this constitution, and be in full force and effect as such from date of said election, but if a majority of said votes shall appear, according to said returns to be against prohibition, then Article XXIV shall be null and void and shall not be a part of this constitution. And if it appear, according to the returns hereinafter provided for, that a majority of all votes cast at said election for and against "Minority Representation" are for minority representation, then Article XXV shall be and form a part of said constitution, and be in full force and effect as such from the date of said election; but if a majority of said votes shall appear, according to said returns, to be against minority representation, then said Article XXV shall be null and void and shall not be a part of this constitution.

At such election the person voted for, for any one of the offices to be filled at such election, who shall receive the highest number of votes cast at said election, shall be declared elected to said office.

§ 6. At the same time and places of election there shall be held by said qualified electors an election for the place of the temporary seat of government.

On each ballot, and on the same ballot on which are the matters voted for or against, as hereinbefore provided, shall be written or printed the words "for Temporary Seat of Government," (here insert the name of the city, town or place, to be voted for.)

And upon the canvass and return of the vote, made as hereinafter provided for, the name of the city, town or place, which shall have received the largest number of votes for said temporary seat of government, shall be declared by the governor, chief justice and secretary of the Territory of Dakota, or by any two of them, at the same time that they shall canvass the vote for or against the constitution, together with the whole number of votes cast for each city, town or place, and the officers above named, shall immediately after the result of said election shall have been ascertained, issue a proclamation directing the legislature elected at said election to assemble at said city, town or place so selected, on the day fixed by this schedule and ordinance.

§ 7. The election provided for herein shall be under the provisions of the constitution herewith submitted, and shall be conducted in all respects as elections are conducted under the general laws of the Territory of Dakota, except as herein provided. No mere technicalities or informalities in the manner or form of election, or neglect of any officer to perform his duty with regard thereto, shall be deemed to vitiate or avoid the same, it being the true intent and object of this ordinance to ascertain and give effect to the true will of the people of the State of South Dakota, as expressed by their votes at the polls.

§ 8. Immediately after the election herein provided for, the judges of elec-



tion at each voting place shall make a true and complete count of all the votes duly cast at such election, and shall certify and return the result of the same, with the names of all the candidates and the number of votes cast for each candidate, and the number of votes cast for and against the constitution, and the number of votes cast for and against prohibition, and the number of votes cast for and against minority representation, and the number of votes cast for each city, town or place for the "temporary seat of government," to the county clerk, or auditor of the respective counties, together with one of the poll lists and election books used in said election.

§ 9. Within five days after said election the several boards of county canvassers provided by law for the canvassing of the results of the election, shall make and certify to the secretary of the Territory of Dakota the true and correct return of the total number of votes cast for the constitution, and against the constitution, of the number of votes cast for and against "prohibition" and the number of votes cast for and against "minority representation," and the number of votes cast for each city, town or place as the "temporary seat of government," and of the number of votes cast for each person voted for at such election, except county officers and members of the legislature, and shall transmit the same to the secretary of the Territory of Dakota, by mail, and shall file with the county clerk or auditor of each of said counties a duplicate and certified copy of said return.

Said board of county canvassers shall issue certificates of election to the persons who shall have received the highest number of votes cast for the respective offices of judge of the county court and representatives in the legislature, and for state senator or senators.

§ 10. When two or more counties are connected in one senatorial or representative district, it shall be the duty of the clerks and auditors of the respective counties to attend at the office of the county clerk of the senior county in date of organization within twenty days after the date of election, and they shall compare the votes given in the several counties comprising such senatorial and representative district and such clerks or auditors shall immediately make out a certificate of election to the person having the highest number of votes in such district for state senator or representative or both; which certificate shall be delivered to the person entitled thereto on his application to the clerk of the senior county of such district.

§ 11. The secretary of the territory shall receive all returns of election transmitted to him as above provided, and shall preserve the same, and after they have been canvassed as hereinafter provided, and after the admission of the State of South Dakota into the Union, he shall deliver said returns to the proper state officer of said State of South Dakota.

Within fifteen days after said election the secretary of the territory, with the governor and chief justice thereof, or any two of them, shall canvass such returns and certify the same to the president of the United States, as provided in the enabling act.

They shall also ascertain the total number of votes cast at such election for the constitution and against the constitution; the total number of votes cast for and against prohibition; and the total number of votes cast for and against minority representation; and the total number of votes cast for each city, town, or place as the "temporary seat of government;" and the total number of votes cast for each person voted for, for any office at said election, excepting county judges and members of the legislature, and shall declare the result of said election in conformity with such vote, and the governor of the territory shall thereupon issue a proclamation at once thereof.

They shall also make and transmit to the state legislature, immediately upon its organization, a list of all the state and judicial officers who shall thus be ascertained to be duly elected.

The various county and district canvassing boards shall make and transmit to the secretary of the territory the names of all persons declared by them to be elected members of the senate and house of representatives of the State of South

Dakota; he shall make separate lists of the senators and representatives so elected, which lists shall constitute the rolls under which the senate and house of representatives shall be organized.

The governor of the territory shall make and issue certificates of election to the persons who are shown by the canvass to have received the highest number of votes for governor, lieutenant governor, secretary of state, auditor, treasurer, attorney general, superintendent of public instruction, commissioner of school and public lands, and judges of the supreme and circuit courts. Such certificates to be attested by the secretary of the territory.

§ 12. The apportionment made in this constitution shall govern the elections above provided for for members of the state legislature, until otherwise provided by law.

At the first election held under this ordinance for senators and representatives of the legislature, there shall be elected forty-five senators and one hundred and twenty-four representatives in the state legislature respectively.

§ 13. The legislature elected under the provisions of this ordinance and constitution shall assemble at the temporary seat of government on the third Tuesday in October, in the year A. D. 1889, at 12 o'clock noon, and on the first day of their assemblage the governor and other state officers shall take the oath of office in the presence of the legislature. The oath of office shall be administered to the members of the legislature and to the state officers by the chief justice of the territory, or by any other officer duly authorized by the laws of the Territory of Dakota to administer oaths.

§ 14. Immediately after the organization of the legislature and taking the oath of office by the state officers, the legislature shall then and there proceed to the election of two senators of the United States for the State of South Dakota, in the mode and manner provided by the laws of congress for the election of United States senators. And the governor and the secretary of the State of South Dakota shall certify the election of the said senators and two representatives in congress, in the manner required by law.

§ 15. Immediately after the election of the United States senators as above provided for, said legislature shall adjourn to meet at the temporary seat of government on the first Tuesday after the first Monday of January, 1890, at 12 o'clock M.; *Provided, however*, that if the State of South Dakota has not been admitted by proclamation or otherwise at said date, then said legislature shall convene within ten days after the date of the admission of the state into the Union.

§ 16. Nothing in this constitution or schedule contained shall be construed to authorize the legislature to exercise any powers except such as are necessary to its first organization, and to elect United States senators, and to adjourn as above provided. Nor to authorize an officer of the executive, administrative or judiciary departments to exercise any duties of his office until the State of South Dakota shall have been regularly admitted into the Union, excepting such as may be authorized by the congress of the United States.

§ 17. The ordinances and schedule enacted by this convention shall be held to be valid for all the purposes thereof.

§ 18. That we, the people of the State of South Dakota, do ordain:

*First*—That perfect toleration of religious sentiment shall be secured, and that no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship.

*Second*—That we, the people inhabiting the State of South Dakota, do agree and declare that we forever disclaim all right and title to the unappropriated public lands lying within the boundaries of South Dakota; and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States; that the lands belonging to citizens of the United States residing without the said state shall never be taxed at a higher rate than the lands be-

longing to residents of this state. That no taxes shall be imposed by the State of South Dakota on lands or property therein, belonging to or which may hereafter be purchased by the United States, or reserved for its use. But nothing herein shall preclude the State of South Dakota from taxing as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relation and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of congress containing a provision exempting the lands thus granted from taxation; all such lands which may have been exempted by any grant or law of the United States shall remain exempt to the extent and as prescribed by such act of congress.

*Third*—That the State of South Dakota shall assume and pay that portion of the debts and liabilities of the Territory of Dakota as provided in this constitution.

*Fourth*—That provision shall be made for the establishment and maintenance of systems of public schools which shall be opened to all the children of this state and free from sectarian control.

*Fifth*—That jurisdiction is ceded to the United States over the military reservations of Fort Meade, Fort Randall and Fort Sully, heretofore declared by the president of the United States; *Provided*, legal process, civil and criminal, of this state shall extend over such reservations in all cases of which exclusive jurisdiction is not vested in the United States, or of crimes not committed within the limits of such reservations.

These ordinances shall be irrevocable without the consent of the United States, and also the people of the said State of South Dakota expressed by their legislative assembly.

§ 19. The tenure of all officers, whose election is provided for in this schedule on the first day of October, A. D. 1889, shall be as follows:

The governor, lieutenant governor, secretary of state, auditor, treasurer, attorney general, superintendent of public instruction, commissioner of school and public lands, judges of county courts, shall hold their respective offices until the first Tuesday after the first Monday in January, A. D. 1891, at twelve o'clock M., and until their successors are elected and qualified.

The judges of the supreme court and circuit courts shall hold their offices until the first Tuesday after the first Monday in January, A. D. 1894, at twelve o'clock m., and until their successors are elected and qualified; subject to the provisions of Section 26 of Article V of the constitution.

The terms of office of the members of the legislature elected at the first election held under the provisions of this constitution shall expire on the first Tuesday after the first Monday in January, one thousand eight hundred and ninety-one (1891).

§ 20. That the first general election under the provisions of this constitution shall be held on the first Tuesday after the first Monday in November, 1890, and every two years thereafter.

§ 21. The following form of ballot is adopted:

#### CONSTITUTIONAL TICKET.

##### INSTRUCTIONS TO VOTERS.

All persons desiring to vote for the constitution, or for any of the articles submitted to a separate vote, may erase the word "No."

All persons who desire to vote against the constitution, or any articles separately submitted may erase the word "Yes."

For the constitution: Yes. No.

For Prohibition: Yes. No.

For minority representation: Yes. No.

For ..... as the temporary seat of government.

For Governor.

For Lieutenant Governor.



For Secretary of State.

For Auditor.

For Treasurer.

For Attorney General.

For Superintendent of Public Instruction.

For Commissioner of School and Public Lands.

For Judges of the Supreme Court.

First District

Second District

Third District

For Judge of the Circuit Court . . . . . Circuit.

For Representative in Congress.

For State Senator.

For Representative in the Legislature.

For County Judge.

§ 22. This constitution shall be enrolled and after adoption and signing by the convention shall be delivered to Hon. A. J. Edgerton, the president of the constitutional convention, for safe keeping; and by him to be delivered to the secretary of state as soon as he assumes the duties of his office, and printed copies thereof shall be prefixed to the books containing the laws of the state, and all future editions thereof.

The president of this convention shall also supervise the making of the copy that must be sent to the president of the United States; said copy is to be certified by the president and chief clerk of this convention.

§ 23. The agreement made by the joint commission of the constitutional conventions of North and South Dakota concerning the records, books and archives of the Territory of Dakota is hereby ratified and confirmed, which agreement is in the words following: That is to say:

The following books, records and archives of the Territory of Dakota shall be the property of North Dakota, to-wit:

All records, books and archives in the offices of the governor and secretary of the territory (except records of articles of incorporation of domestic corporations, returns of election of delegates to the constitutional convention of 1889, for South Dakota, returns of elections held under the so-called local option law in counties within the limits of South Dakota, bonds of notaries public appointed for counties within the limits of South Dakota, papers relating to the organization of counties situate within the limits of South Dakota, all of which records and archives are part of the records and archives of said secretary's office; excepting, also, census returns from counties situate within the limits of South Dakota and papers relating to requisitions issued upon the application of officers of counties situate within the limits of South Dakota, all of which are part of the records and archives of said governor's office.)

And the following records, books, and archives shall also be the property of the State of North Dakota, to-wit:

Vouchers in the office or in the custody of the auditor of this territory relating to expenditures on account of public institutions, grounds or buildings situate within the limits of North Dakota; one warrant register in the office of the

treasurer of this territory, being a record of warrants issued under and by virtue of Chapter 24 of the laws enacted by the Eighteenth Legislative Assembly of Dakota territory; all letters, receipts and vouchers in the same office now filed by counties and pertaining to counties within the limits of North Dakota; paid and canceled coupons in the same office representing interest on bonds which said State of North Dakota is to assume and pay; reports of gross earnings of the year 1888 in the same office, made by corporations operating lines of railroad situated wholly or mainly within the limits of North Dakota; records and papers of the office of the public examiner of the Second district of the territory; records and papers of the office of the Second district board of agriculture; records and papers in the office of the board of pharmacy of the District of North Dakota.

All records, books and archives of the Territory of Dakota which it is not herein agreed shall be the property of North Dakota, shall be the property of South Dakota.

The following books shall be copied and the copies shall be the property of North Dakota, and the cost of such copies shall be borne equally by the said states of North Dakota and South Dakota. That is to say:

Appropriation ledger for the years ending November, 1889, and 1890—one volume.

The current warrant auditor's register—one volume.

Insurance record for 1889—one volume.

Treasurer's cash book "D."

Assessment ledger "B."

Dakota Territory bond register—one volume.

Treasurer's current ledger—one volume.

The originals of the foregoing volumes which are to be copied, shall at any time after such copying shall have been completed, be delivered on demand to the proper authorities of the State of South Dakota.

All other records, books and archives which it is hereby agreed shall be the property of South Dakota shall remain at the Capitol of North Dakota until demanded by the legislature of the State of South Dakota, and until the State of North Dakota shall have had a reasonable time after such demand is made to provide copies or abstracts of such portions thereof as the said State of North Dakota may desire to have copies or abstracts of.

The State of South Dakota may also provide copies or abstracts of such records, books and archives which is agreed shall be the property of North Dakota as said State of South Dakota shall desire to have copies or abstracts of.

The expense of all copies or abstracts of records, books and archives which it is herein agreed may be made, shall be borne equally by said two states.

ALONZO J. EDGERTON,

*President of the Constitutional convention.*

R. C. Anderson,  
Ireneus Atkinson,  
Lyman T. Boucher,  
Andrew J. Berdahl  
S. F. Brott,  
C. Beuchler,  
E. W. Caldwell,  
Edgar E. Clough,  
C. G. Coats,  
Wm. Cook,  
George C. Cooper,  
Dighton Corson,  
Peter Couchman,  
Harry Trumbull Craig,  
George H. Culver,  
J. G. Davies,  
W. G. Dickinson,  
T. F. Diefendorf,  
J. Downing,  
H. W. Eddy,  
Edward G. Edgerton,  
W. Elliott,  
H. F. Fellows,  
J. A. Fowles,  
Attest:

C. S. Gifford,  
W. H. Goddard,  
David Hall,  
C. J. B. Harris,  
Corbley G. Hartley,  
M. R. Heninger,  
L. H. Hole,  
C. A. Houlton,  
S. F. Huntley,  
H. A. Humphrey,  
S. D. Jeffries,  
John L. Jolly,  
A. G. Kellam,  
Jonathan Kimball,  
Timothy W. P. Lee,  
R. F. Lyons,  
W. H. Matson,  
A. B. McFarland,  
V. T. McGillicuddy,  
W. H. Murphy,  
Henry Niell,  
Wm. S. O'Brien,  
Sanford Parker,  
S. S. Peck,

Charles H. Price,  
Samuel A. Ramsey,  
A. O. Ringsrud,  
John Scoliard,  
C. G. Sherwood,  
R. A. Smith,  
I. R. Spooner,  
Wm. Stoddard,  
Thomas Sterling,  
M. P. Stroupe,  
F. W. Thompson,  
Stephen B. Van Buskirk,  
William Van Eps,  
Clarence H. Van Tassel,  
Chester R. Wescott,  
S. A. Wheeler,  
J. F. Whitlock,  
J. V. Willis,  
W. T. Williams,  
H. M. Williamson,  
Chauncey L. Wood,  
Joshua F. Wood,  
F. G. Young,  
Joseph Zitka.

F. A. BURDICK, *Chief Clerk.*

## ARTICLE XXVII.

[Adopted by popular vote at the general election November 8, 1898; 22,170 votes for and 20,557 against the same.]

§ 1. QUESTION SUBMITTED.] "That the following amendment to the constitution of the State of South Dakota is hereby agreed to, and which amendment when approved and ratified shall become part of the constitution as Article twenty-seven (27) thereof.

ARTICLE XXVII. § 1. The manufacture and sale of intoxicating liquors shall be under exclusive state control and shall be conducted by duly authorized agents of the state who shall be paid by salary and not by commissions. All liquors sold shall first be examined by the state chemist and the purity thereof established.

§ 2. LEGISLATURE TO PROVIDE FOR ENFORCEMENT.] The legislature shall by law prescribe regulations for the enforcement of the provisions of this article and provide suitable and adequate penalties for the violation thereof.

## ARTICLE XXVIII.

§ 1. The several counties of the state shall invest the moneys of the permanent school and endowment funds in bonds of school corporations, state, county and municipal bonds or in first mortgages upon good improved farm lands within their limits respectively; under such regulations as the legislature may provide, but no farm loan shall exceed one thousand dollars to any one person, firm or corporation.

NOTE.—Article 28 was proposed by the legislature in 1899 as an amendment to the constitution, and was at the general election held in November, 1900, adopted by a popular vote of 49,989 for, and 15,653 against.